

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF

[REDACTED]

Reg. No: 2011-24924

Issue No: 1038

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on February 28, 2011. After due notice, a telephone hearing was held on June 28, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly terminated and sanctioned Claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant was a mandatory WF/JET participant. (Hearing Summary).
2. On January 20, 2011, Claimant indicated during the interview with WF/JET on the Individual Service Strategy, that her daughter needed her care and that her daughter was blind. Claimant also checked "yes" and "no," to needing to find a reliable childcare provider and needing to find a reliable back-up childcare provider. Claimant was referred to WF/JET beginning January 24, 2011 at 8:30 A.M. (Department Exhibits 2, 8-9).
3. Claimant did not attend WF/JET on January 24, 2011 and WF/JET mailed Claimant a reengagement letter on January 25, 2011, rescheduling her for WF/JET on January 28, 2011, at 8:30 A.M. (Department Exhibit 2).

4. On January 28, 2011, WF/JET returned Claimant's file to the department and requested a Triage. (Department Exhibit 2).
5. On January 31, 2011, the department mailed Claimant a Notice of Noncompliance because she failed to participate as required in employment and/or self-sufficiency related activities. The notice informed Claimant that she was scheduled for an appointment on February 9, 2011, to demonstrate good cause for noncompliance and that failure to show good cause could result in loss of benefits. (Department Exhibits 3-4).
6. On February 9, 2011, Claimant attended Triage and was given until February 10, 2011, to provide documentation that she was required to provide constant care for her ill child. (Department Exhibit 2).
7. The department mailed Claimant a Notice of Case Action on February 11, 2011, informing Claimant that her FIP program was being closed as of March 1, 2011, because she failed to participate in employment and/or self-sufficiency related activities and because this was her third noncompliance, her group would not receive benefits from March 1, 2011 through February 29, 2011. (Department Exhibits 8-10).
8. Claimant submitted a hearing request on February 28, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
9. On March 11, 2011, Claimant submitted medical documentation dated March 7, 2011, to the department showing her daughter's diagnosis of septo-optic dysplasia, diabetes insipidus, adrenal insufficiency, cortical blindness and generalized developmental delays. The documentation also stated that Claimant's daughter could not provide for her own needs and she needs parent or guardian to provide medical care. (Department Exhibits 13-15)
10. This is Claimant's third non-compliance with the FIP program. (Department Exhibits 8-10).
11. Claimant provided a letter during the hearing dated June 28, 2011, from a second doctor, explaining her daughter's diagnosis, and that in his opinion, Claimant may need a deferral of work requirements. (Claimant Exhibit 1).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Reference Tables Manual (RFT).

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by the department when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments are covered by the JET case manager when a mandatory JET participant is referred at application. BEM 229.

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stable employment. JET is a program administered by the Michigan Department of Energy, Labor and Economic Growth (DELEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- . Failing or refusing to:
 - .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
 - .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
 - .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

- .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP).
- .. Provide legitimate documentation of work participation.
- .. Appear for a scheduled appointment or meeting related to assigned activities.
- .. Participate in employment and/or self-sufficiency-related activities.
- .. Accept a job referral.
- .. Complete a job application.
- .. Appear for a job interview (see the exception below).
- . Stating orally or in writing a definite intent not to comply with program requirements.
- . Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- . Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. Clients must comply with triage requirement within the negative action period.

The department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of

the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A.

Good cause should be determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- . For the first occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the noncompliance as noted in "First Case Noncompliance Without Loss of Benefits" below.
- . For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. BEM 233A.

In this case, Claimant was required to participate in the WF/JET program as a condition of receiving her FIP benefits. Claimant failed to attend JET classes on January 24, 2011 and January 28, 2011. A Triage was scheduled on February 9, 2011. Claimant attended the Triage and explained that her daughter has numerous health issues, including being blind and diabetic and Claimant has to provide in-home health care for her. The department told Claimant she had until the next day at 4 P.M., to provide documentation that she was required to provide constant care for her ill child. Claimant failed to provide any medical documentation by 4 P.M. on February 10, 2011, and the department found she was noncompliant for failing to show good cause.

Claimant credibly testified that her daughter's doctor was out of the office and she was unable to obtain the medical documentation showing her daughter's numerous disabilities until the doctor returned. Claimant submitted the documentation on March 11, 2011, showing her daughter's diagnosis and the doctor's opinion that her daughter needed a parent or guardian to provide medical care for her. Claimant stated that she had no control over when the doctor returned the forms to her.

Claimant also provided additional documentation at the hearing in the form of a letter from a second doctor, explaining her daughter's diagnosis and the doctor's opinion that work requirements will need to take into account Claimant's daughter's increased care needs. The doctor also noted that Claimant may need a deferral of work requirements while locating a suitable caregiver.

The WF/JET caseworker stated that during Claimant's initial interview, Claimant indicated that she had a reliable childcare provider. Claimant testified that her childcare provider quit because she could not properly care for Claimant's daughter. A review of the documentation submitted by WF/JET showing Claimant had indicated she had a reliable childcare provider is ambiguous because it shows Claimant checked both "yes" and "no" to the statements that she needed to find a reliable childcare provider and needed to find a reliable back-up childcare provider. The departmental representative stated prior to the end of the hearing that if they had had the documentation showing Claimant's daughter needs constant medical care, good cause would have been found at the Triage.

The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has shown good cause for missing her WF/JET appointments on January 24, 2011 and January 28, 2011. As a result, the department improperly closed Claimant's FIP case for non-compliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed Claimant's FIP case and the 12-month sanction is REVERSED. Claimant's FIP shall be reinstated and Claimant shall be issued any supplemental benefits to which she is otherwise entitled. The department shall also determine whether Claimant should be referred back to WF/JET or deferred based on her daughter's medical needs.

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/7/11

Date Mailed: 7/7/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

VLA/ds

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