

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 20114550

Issue No: 1005

Case No:



Load No:

Hearing Date:

December 6, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on December 6, 2010. The Claimant appeared and testified. Gwendolyn Manning, FIS appeared on behalf of the Department.

ISSUE

Did the Department properly close Claimant's Family Independence Program ("FIP") benefits case for non-compliance with the Work First/Jobs Education and Training ("JET") program?

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 recipient of FIP benefits who was assigned to JET.
2. On March 29, 2010, the Medical Review Team determined that Claimant was "Not Disabled-Work Ready with Limitations".
3. Claimant was assigned to Work First with a July 23, 2010 appointment date.
4. Claimant failed to appear at the Work First agency on July 23, 2010 and her case was referred to triage.
5. Notice of Noncompliance was sent to Claimant with notice of an August 3, 2010 triage meeting.

6. On August 3, 2010, Claimant failed to appear at the triage meeting.
7. On August 17, 2010, Claimant's FIP case closed and a 90 day sanction was imposed.
8. Claimant suffers with ulcerative colitis, panic disorder, and bronchitis.
9. Claimant requested hearing on October 11, 2010 contesting the closure and sanction of FIP benefits.

CONCLUSIONS OF LAW

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 Dependant Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference manual (PRM).

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP 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. BEM 230A

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) 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. BEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM 233(a). Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. BEM Manual Item 230(a), BEM Manual Item 230(b); 7 CFR Parts 272 and 273. The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. BEM 233A

In the present case, Claimant credibly testified that her medical problems prevent her from participating with Work First. Claimant submitted medical records and a statement from her treating physician, [REDACTED] dated March 16, 2010. In that letter, [REDACTED] states Claimant "has numerous medical conditions which keep her from participating in work programs as well as other activities". In that letter, he lists the following medical conditions that Claimant suffers from:

1. Chronic Bronchitis
2. Lumbago
3. Emphysema
4. Panic Disorder
5. Headaches
6. Chronic Fatigue Syndrome
7. Leukocytosis
8. Diverticulosis of Colon.

Medical records support these diagnoses.

This Administrative Law Judge finds that Claimant has good cause for failing to participate with Work First due to her medical problems. Specifically, Claimant is physically unfit for the job or activity due to ulcerative colitis and panic disorder and the effect of her medications as shown by medical evidence or other reliable information. BEM 233A. Accordingly, the Department's closure of FIP benefits and implementation of a 90 day sanction was improper and incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was incorrect in the closure of FIP benefits and in imposing a 90 day sanction. It is ORDERED that the Department's decision in this regard be and is hereby REVERSED. Claimant's FIP benefits shall be reinstated as of the date of closure, the negative action shall be deleted and any missed payments shall be paid to the Claimant in the form of a supplement.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/03/11

Date Mailed: 01/05/11

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 mailing 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.

AM/dj

cc:

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