

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

IN THE MATTER OF:

██████████
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Reg. No: 201146258
Issue No: 1005
Case No: ██████████
Hearing Date: October 13, 2011
Washtenaw County DHS-20

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, an in person hearing was held on October 13, 2011. The Claimant appeared and testified. The Claimant's Attorney ██████████ from ██████████ also appeared. The Department was represented by Cynthia Allard (JET FIS).

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. Claimant was found "Not Disabled-Work Ready with Limitations" by the Medical Review Team on May 11, 2011.
3. The Medical Review Team found Claimant "Limited to unskilled work".
4. Claimant was given a JET appointment notice for June 29, 2011 but failed to appear.
5. Claimant was found to not have participated in required activity and a Notice of Noncompliance was sent on June 29, 2011 with a July 6, 2011 triage meeting notice.

6. At the triage meeting on July 8, 2011 Claimant was found not to have good cause.
7. Claimant requested a hearing on July 18, 2011 contesting the closure of FIP benefits.
8. Claimant alleged at hearing that she suffers from mental health problems that prevent her from participating with Work First and JET related activities.
9. Claimant sees a therapist on a weekly basis and is under psychiatric treatment.
10. In a Mental Residual Functional Capacity Assessment dated February 9, 2011 Claimant's treating psychiatrist [REDACTED] found Claimant markedly limited in 8 of 20 categories, Moderately Limited in 6 of 20 categories, and not significantly limited in 6 of 20 categories. A notation from the psychiatrist on this form states, "Patient has much difficulty with irritability and anger in the presence of others".
11. Claimant was found to have a GAF score of 50.

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.

GOOD CAUSE FOR NONCOMPLIANCE

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. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to JET. Do not do a new JET referral. Good cause includes the following:

Client Unfit 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. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. BEM 233A

In the present case, Client argued that her mental health problems render her mentally unfit for a job or JET related activity. Claimant presented a psychological assessment from her treating psychiatrist that does confirm diagnoses of bipolar disorder, intermittent explosive disorder, mood disorder, Post Traumatic Stress Disorder with a GAF score of 50 which does correspond to severe problems and limitations.

The Department pointed out at hearing that Claimant was found work ready by the Medical Review Team.

This Administrative Law Judge finds that Claimant is unfit for job or activity and therefore has good cause for failing to participate with JET. BEM 233A. This assessment is supported by the findings and records of Claimant's treating psychiatrist. As the Claimant's Attorney pointed out at hearing, the Medical Review Team evaluators did not examine or even speak with Claimant. The assessment of Claimant's treating psychiatrist should be given weight. This Administrative Law Judge would have concern for Claimant's safety and well being if she was required to comport with JET requirements and also that it could be a set back for her mental health treatment.

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 it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. FIP benefits shall be reinstated back to the date of closure. Any missed benefits shall be paid to Claimant in the form of a supplement. The negative action shall be deleted.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 17, 2011

Date Mailed: October 17, 2011

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 60 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.

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