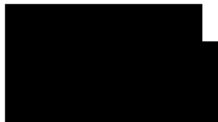


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-54021
Issue No: 1038
Case No: [REDACTED]
Hearing Date:
October 13, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 September 12, 2011. After due notice, a telephone hearing was held on October 13, 2011. Claimant appeared and provided testimony.

ISSUE

Whether the Department of Human Services properly denied Claimant's application for Family Independence Program (FIP) benefits based on Claimant's 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. On July 21, 2011, Claimant applied for FIP benefits for herself and her household. (Hearing Summary)
2. On August 1, 2011, Claimant's DHS caseworker completed an interview with Claimant pursuant to Claimant's FIP application, during which Claimant was referred to WF/JET as a mandatory participant. Claimant was also given 10 days within which to verify the alleged disability of Claimant's adult group member to support his requested deferral from mandatory participation in WF/JET. (Department Exhibits B-1, G)
3. On August 1, 2011, the Department mailed Claimant a Jobs, Education and Training Appointment Notice (DHS 4785), advising Claimant's group member of his required attendance at his JET appointment on August 15,

2011 at 9:00 a.m.. The Notice further indicated that a failure to attend WF or JET prior to the opening of Claimant's FIP case would result in the denial of FIP benefits. (Department Exhibit H)

4. On August 9, 2011, the Department received a medical statement indicating that Claimant's group member was seen on August 9, 2011 for x-rays and the results were pending. (Department Exhibit F)
5. On August 15, 2011 at 3:52 p.m., Claimant's caseworker left a voicemail message for Claimant, advising her that the medical statement submitted by Claimant on August 9, 2011 was insufficient to defer Claimant's group member from WF/JET requirements. Claimant's caseworker further advised Claimant in this voicemail message that if Claimant's group member was unable to attend his August 15, 2011 JET appointment, he would be given one additional opportunity to do so on August 17, 2011 and a JET Appointment Notice would be left at the DHS county office front desk for Claimant's group member to pick up. (Department Exhibits C, D, E, I)
6. On August 17, 2011, Claimant reported to her WF/JET worker that Claimant's group member was unable to attend his August 17, 2011 JET appointment and has a medical appointment on August 18, 2011 for the purpose of obtaining documentation to defer him from WF/JET requirements. (Department Exhibit J)
7. On August 19, 2011, the Department mailed Claimant a Notice of Case Action advising her that, effective August 16, 2011, her application for FIP benefits had been denied based on Claimant's group member's failure to attend JET and to remain in compliance with JET activities before the opening of her cash assistance case. (Department Exhibits A1-A3)
8. On August 22, 2011, the Department received from Claimant an August 22, 2011 medical statement indicating that Claimant's group member was seen by his physician on that date and he is unable to work due to an old back injury and osteoarthritis. (Department Exhibit K)
9. On September 9, 2011, Claimant requested a hearing, protesting the Department's denial of her application for FIP benefits. (Hearing Request, Claimant Exhibit 1).
10. At the hearing, Claimant submitted an October 11, 2011 medical statement indicating that Claimant's group member was previously scheduled to be seen by his physician on August 18, 2011 for the purpose of obtaining medical certification of his inability to work but was required to reschedule his appointment due to the physician's absence. (Claimant Exhibit 2)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness of that decision. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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 administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies for the program are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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. JET is a program administered by the Michigan Department of Licensing and Regulatory Affairs (LARA) 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. 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 group to participate in the JET program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 229.

Department policy provides that, at application, the DHS specialist must, among other things, temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthier deferral is made such as clients with serious medical problems or disabilities or clients caring for a spouse or child with disabilities. BEM 229. Department policy further provides that *the DHS specialist should not refer a client for orientation and the work participation program until it is certain* that barriers to participation such as lack of child care or transportation have

been removed, possible reasons for deferral have been assessed and considered, and *disabilities have been accommodated*. BEM 229 (Emphasis added).

In this case, based on the evidence in the record, Claimant applied for FIP benefits for herself and her household and, at her August 1, 2011 interview with her DHS caseworker, Claimant reported the need for her adult group member's deferral from WF/JET requirements due to his disability. Despite Claimant having identified this barrier, the DHS caseworker nonetheless referred Claimant's group member to WF/JET, requiring him to attend JET orientation on August 16, 2011 unless he provided medical verification of his disability by August 11, 2011. On August 9, 2011, Claimant submitted a medical statement to the Department confirming that Claimant's group member was seen on August 9, 2011 for x-rays and the results were pending. While the Department understandably deemed this statement insufficient for purposes of establishing a disability, the Department was put on notice that results were pending regarding a medical condition. Yet, the Department again referred Claimant's group member to WF/JET, requiring him to attend JET orientation on August 17, 2011.

On August 17, 2011, Claimant again informed the Department of the status of her group member's claimed disability – specifically, that he was unable to attend his August 17, 2011 JET appointment and that he had a medical appointment on August 18, 2011 for the purpose of obtaining documentation to defer him from WF/JET requirements. After receiving this notice and without awaiting any information from Claimant regarding the outcome of her group member's [REDACTED] doctor's appointment, the Department denied Claimant's FIP application on August 19, 2011 based on Claimant's group member's failure to attend JET and to remain in compliance with JET activities. On August 22, 2011, Claimant provided the Department with a medical statement verifying that Claimant's group member was seen by his physician on that date and he is unable to work due to an old back injury and osteoarthritis. At the hearing, Claimant's DHS caseworker testified that, had she received this medical statement prior to denying Claimant's FIP application on August 19, 2011, she would have deemed it sufficient to defer Claimant's group member from WF/JET participation.

The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the Department improperly referred Claimant's group member to WF/JET before having been certain that possible reasons for deferral had been assessed and considered, and disabilities had been accommodated in accordance with policy. Accordingly, the Department's denial of Claimant's FIP application can not be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly denied Claimant's FIP application.

Accordingly, the Department is REVERSED. The Department shall (i) reinstate Claimant's FIP case and properly process it in accordance with any disability and/or inability to work reported by Claimant's group member; and (ii) issue Claimant any retroactive FIP benefits to which she is entitled.

It is SO ORDERED.

____/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 19, 2011

Date Mailed: October 19, 2011

NOTICE: The Michigan Administrative Hearing System (MAHS) 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 Hearing Decision and Order. MAHS 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 this Hearing 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.

SDS/alc

cc:

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