

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

IN THE MATTER OF:



Reg No: 20118085
Issue No: 1005
Case No: [REDACTED]
Hearing Date:
January 3, 2011
Macomb County DHS-12

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 January 3, 2011. The Claimant appeared and testified. Vicki Kushniruk appeared on behalf of the Department.

ISSUE

Did the Department properly deny Claimant's Family Independence Program ("FIP") application 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 applied for FIP benefits on August 27, 2010, and was assigned to JET.
2. Claimant and her husband participated with the Work First program.

3. Claimant's husband was assigned to attend CSP classes but was unable to attend due to an illness, and the case was referred to triage by the Work First worker.
4. On November 12, 2010, Claimant's FIP application was denied for failing to participate with Work First.
5. No triage was held.
6. Claimant FIP application was not processed with the standard of promptness.
7. Claimant requested a hearing on November 18, 2010, contesting the denial 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) 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.

Department policy dictates the standard of promptness for processing applications: FIP, SDA, RAP, CDC, MA and AMP Only--Certify program approval or denial of the application within 45 days. BAM 115

Department policy states, 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. BEM 233(a)

In the present case, Claimant applied for FIP benefits on August 27, 2010, and began participating with JET on October 18, 2010. Claimant completed four weeks of assigned orientation for the JET program. Claimant's husband was assigned to attend

CSP on November 9, 2010. Claimant's husband was ill and could not attend. The Work First worker, Ms. Wesley, assigned the case to triage. The Department worker determined that no triage was necessary because Claimant had not yet been approved. The Department denied the application for failing to participate with JET without scheduling or holding a triage and without determining good cause. Claimant's husband had good cause for failing to participate due to his illness.

The Department failed to process Claimant's application within the 45 day standard of promptness, a point the Department conceded at hearing. BAM 115

Department policy clearly states that 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. BEM 233(a) Since Claimant and her husband were JET participants, a triage meeting and a determination of good cause was required by Department policy. BEM 233(a) Therefore, the Department's denial of Claimant's FIP application, prior to a triage being held, was improper and incorrect. This Administrative Law Judge finds that Claimant's husband had good cause for missing his JET activity due to an illness.

The Department argued that no triage was required because the application had not yet been approved; however, to allow the Department to circumvent Department policy and procedures and avoid triage requirements by allowing applications to linger outside the standard of promptness would be unjust and irrational.

This Administrative Law Judge cannot find that Claimant refused to cooperate or failed to make a reasonable effort to participate with JET or was otherwise noncompliant with JET. Accordingly, the Department's denial of FIP benefits was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department incorrectly denied Claimant's FIP application and is hereby REVERSED. Claimant's FIP application shall be reinstated and reprocessed as of the date of application. Any missed benefits shall be paid to Claimant in the form of a supplement.



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

Date Signed: 01/19/11

Date Mailed: 01/24/11

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

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