

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201244441
Issue No: 1038
Case No: [REDACTED]
Hearing Date: May 8, 2012
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

HEARING DECISION

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on May 8, 2012. The Claimant and Agency appeared by telephone and provided testimony.

ISSUE

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

FINDINGS OF FACT

I find as material fact based upon the competent, material and substantial evidence on the whole record:

1. On or around February 1, 2011, the Claimant told her case worker [REDACTED] she suffered from a disability and was unable to participate in WF/JET.
2. On or around February 15, 2011, the Department sent the Claimant medical needs forms. The documentation provided did not include a WF/JET medical deferral form. On or around February 15, 2011, the Claimant returned the medical forms seeking disability benefits.
3. On February 27, 2011, the Claimant participated in a WF/JET orientation.
4. On March 7, 2012, the Department determined the Claimant was noncompliant with WF/JET because the Claimant did not participate in a required activity.
5. On March 15, 2012, a triage was held in the absence of the Claimant. The Department determined the Claimant did not have good cause for not participating in a required activity.

6. On or around March 22, 2012, the Department sent the Claimant a WF/JET medical deferral form.
7. On March 22, 2012, the Department notified the Claimant regarding the closure of her FIP benefits.
8. On March 22, 2012, the Claimant requested a hearing to protest the FIP closure.

CONCLUSIONS OF LAW

The 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. 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) and the Program Reference Manual (PRM).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. 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. Document the good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

Good cause includes the following:

- . The person is working at least 40 hours per week on average and earning at least state minimum wage.
- . 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.

- . The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

Be alert to indicators that the client or family members suffer from undisclosed or undiagnosed disabilities. Some disabilities diminish the individual's ability to recognize or articulate his/her needs or limitations. Temporarily defer clients who need further screening or assessment.

Temporarily defer an applicant with identified barriers until the barrier is removed. 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.

Clients should not be referred 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.

Section 504 of the American Disability Act (ADA) defines a disability as a physical or mental impairment that substantially limits one or more major life activities; or a history of such an impairment; or being regarded as having such an impairment. Examples of major life activities include: thinking, learning, taking care of oneself, maintaining social relationships, sleeping, communicating, etc.

A number of FIP clients have disabilities or live with a spouse or child(ren) with disabilities that may need accommodations to participate in assigned activities. The needs of persons with disabilities are highly individual and must be considered on a case-by-case basis. DHS must make reasonable efforts to ensure that persons with disability-related needs or limitations will have an effective and meaningful opportunity to benefit from DHS programs and services to the same extent as persons without disabilities. Efforts to accommodate persons with disabilities may include modifications to program requirements, or extra help, as explained below. Failure to recognize and accommodate disabilities undermines efforts to assist families in achieving self-sufficiency. When a client requests reasonable accommodation in order to participate, DHS and the employment service providers will consider the need for applying the above requirements.

A disability as defined above that requires reasonable accommodation must be verified by an appropriate source, such as a doctor, psychologist, therapist, educator, etc. A client may disclose a disability at any time. Failure to disclose at an earlier time does not prevent the client from claiming a disability or requesting an accommodation in the future.

When information provided by an appropriate source indicates the need for reasonable accommodation, do the following:

- Obtain a DHS-54A, Medical Needs or the DHS 54E, Medical Needs -Work Participation Program, form from a qualified medical professional listed on the form.
- Consult Michigan Rehabilitation Services (MRS) if additional information about appropriate accommodations is needed or when you need advice.
- Document the accommodation in the *Other MWA referral comments* section of the *Employment Services - Details* screen, and on the Family Self-Sufficiency Plan (FSSP).

Based on the testimony provided at the hearing, I find the Claimant informed the Department about a potential disability and the Department did not act upon the information provided. The Department was unable to indicate why it was they didn't follow up and defer the Claimant from WF/JET. Therefore, I find the Department did not act in accordance with the applicable laws and policies and as a result I am reversing the Department in this matter.

Accordingly, I find the Department's actions are **REVERSED**.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department improperly terminated the Claimant's Family Independence Program (FIP) benefits for noncompliance with WF/JET requirements.
2. The Department is ordered to initiate a redetermination of the Claimant's eligibility for FIP benefits as of March 23, 2012 and to issue retroactive benefits if otherwise qualified and eligible.

Accordingly, the Department's actions are **REVERSED**.

/s/_____

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 9, 2012

Date Mailed: May 9, 2012

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.

CAA/cr

cc:

