

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-24376
Issue No: 1038
Case No: [REDACTED]
Hearing Date:
March 28, 2012
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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. After due notice, an in-person hearing was held on March 28, 2012. Claimant, represented by [REDACTED] of [REDACTED], personally appeared and provided testimony.

ISSUE

Did the department properly terminate and sanction Claimant's Family Independence Program (FIP) benefits for 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. Claimant had been deferred from WF/JET participation due to caring for her disabled daughter.
2. On September 1, 2011, Claimant's daughter turned 18 and the department determined that Claimant was no longer eligible for deferment from WF/JET based on her daughter's age. (Hearing Summary).
3. The department mailed Claimant a Work Participation Program Appointment Notice (DHS-4785) on December 6, 2011, scheduling her appointment with WF/JET on December 19, 2011. (Department Exhibit 8).
4. Claimant did not attend WF/JET. (Department Exhibit 7).

5. Claimant was mailed a Notice of Noncompliance (DHS-2444) on December 28, 2011, scheduling a triage appointment for January 4, 2012. Claimant was also mailed a Notice of Case Action, informing her that her FIP was closed effective 2/1/12. (Department Exhibit 4, 7).
6. Claimant attended the Triage. Claimant provided the Medical Needs–JET form completed by her daughter’s doctor dated 12/14/11, indicating that Claimant’s daughter was diagnosed with Post Traumatic Stress Disorder and Depression and was under the care of a psychiatrist and psychologist indefinitely. The doctor indicated that Claimant’s daughter required in-home care and Claimant was unable to engage in work due to the extent of care her daughter required. The doctor indicated Claimant’s daughter required Claimant’s supervision in the home due to her PTSD and depression and was unable to be monitored by a non-familial provider due to her symptoms. The department determined no good cause for the noncompliance. (Department Exhibit 9–11).
7. Claimant submitted a hearing request on January 5, 2012, based on the department’s negative action.
8. An in-person hearing was held on March 28, 2012, during which the department admitted Claimant’s daughter was disabled and receives SSI as a result of the disability, and the only issue remaining was whether Claimant’s daughter was a “child” in accord with BEM 230A.

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 Mich Admin Code, Rules 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 Reference Tables Manual (RFT).

As indicated above, Claimant’s daughter’s disability is not in question. The only remaining issue is whether “child” in BEM 230A refers to a person’s child, as Claimant contended at the hearing, or referred to a “dependent child” as the department found, under BEM 210, thus making Claimant a Work Eligible Individual (WEI) and mandatory participant of the WF/JET program.

Work Eligible Individuals (WEIs) are FIP clients who count in the state and/or federal work participation rate. All WEIs are required to participate in work related activities (core or non-core) for a minimum number of hours based on case circumstances unless reasonable accommodations are required and other activities are planned; see BEM 230A. BEM 228.

Claimant testified that she should continue to be deferred from Work First-JET based on her daughter's continued disability, as documented by her daughter's doctor. The department contends that Claimant can no longer be deferred because under BEM 210, Claimant's daughter is a dependent child.

The department is relying on BEM 210 regarding group composition. Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. To be eligible for FIP both of the following must be true:

- The group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. BEM 210.
- The group cannot include an adult who has accumulated more than 60 TANF funded months, beginning October 1, 1996 or any other time limits in the Family Independence Program; see BEM 234.

"Dependent child" is defined as an unemancipated child who lives with a caretaker and is one of the following:

- Under age 18.
- Age 18 and a full-time high school student. See [BEM 245](#), for definition of high school. BEM 210.

The department stated that Claimant's daughter is no longer a "dependent child" because she is over 18 and is not a full-time high school student.

Claimant relies on BEM 230A which indicates that a spouse or parent who provides care for a spouse or child with disabilities living in the home is not a WEI and is not referred to the work participation program if:

- The spouse/child with disabilities lives with the spouse/parent providing care; **and**
- A doctor verifies all of the following in writing or by using a DHS-54A, Medical Needs, form or DHS-54E, Medical Needs -Work Participation Program:
 - The spouse/child with disabilities requires a caretaker due to the extent of the disability.
 - The spouse/parent is needed in the home to provide care.
 - The spouse/parent cannot engage in an employment-related activity due to the extent of care required. BEM 230A.

It should be noted that nowhere in policy BEM 230A does it state "independent child." The policy clearly states spouse/child, with no age requirement. Therefore, looking only at the plain meaning of the words of the policy, BEM 230A clearly indicates that a parent who provides care for a disabled child living in the home is not a WEI and is not referred to the work participation program if the parent is providing care and a doctor verifies that the child with the disabilities requires a caretaker due to the extent of the disability and the parent is needed in the home to provide care and the parent cannot engage in an employment-related activity due to the extent of care required. BEM 230A.

In further support of the plain meaning of BEM 230A in regards to a disabled child is federal regulation 45 CFR 261.2(n)(2)(i) which states a Work-Eligible individual (WEI) excludes a parent providing care for a disabled family member living in the home, provided that there is medical documentation to support the need for the parent to remain in the home to care for the disabled family member.

In this case, Claimant has met all the criteria outlined in BEM 230A and federal regulation 45 CFR 261.2. Therefore, the department erred by requiring that Claimant participate in JET activities because she is exempt from participating based on BEM 230A and federal regulations. As a result, Claimant is found to have good cause for her noncompliance with WF/JET program requirements, as Claimant's disabled daughter requires her supervision, as shown by the medical documentation that indicates Claimant's daughter's disability precludes Claimant's participation in a work and/or self-sufficiency-related activity.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly determined that Claimant's FIP benefits should be terminated for noncompliance with WF/JET requirements. The department's determination is REVERSED.

The department shall not terminate Claimant's FIP benefits and shall ensure Claimant receives or has received monthly FIP benefits, if otherwise eligible.

It is SO ORDERED.

/S/
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 4/11/12

Date Mailed: 4/11/12

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.

VLA/ds

■ [REDACTED]