STATE OF MICHIGAN

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

IN THE MATTER OF:



Reg. No.: 20135429 Issue No.: 1038, 3029 Case No.:

Hearing Date: January 24, 2013

County: Lenawee

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administ rative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Cla imant's request for a hearing. After due notice, an inperson hearing was held on January 24, 2013. Claimant appeared with her authorized representative, and provided test imony on her behalf. Participants on behalf of the Department of Human Services (Department) included

ISSUE

Was good cause for JET non-compliance medically established?

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 May 5, 2012, Claimant app lied FIP/FAP and was approved with deferral from JET and issue medical forms.
- On September 7, 2012, Medica I Rev iew Team (MRT) used medical evidence acquired before application and denied Claimant's JET deferral without the requested medical verification.
- On September 12, 2012, the Depar tment of Hum an Servic es (DHS)
 notified the Claimant of the MRT denial; she was al so notified of the JET
 participation appointment allowing her 20 days to attend as a m andatory
 participant.
- On October 6, 2012, the DHS terminated the Claimant FIP/FAP based on non-compliance of the JET program per BEM 233A and B, with a hearing request on October 12, 2012.

- 5. On October 18, 2012, the Claim ant's hus band represented her at the triage meeting. On that date he requested and was given medica verification forms regarding a JET deferral.
- 6. At the hearing on January 24, 2013, the Claimant submitted the requested medical verification for the firs t time, along with past submitted medical examinations on November 24, 2010, July 13, 2011 (Claimant Exhibit 1) and on January 24, 2013, the same date of the hearing.

CONCLUSIONS OF LAW

The Family Independence Progr am (FIP) was establis hed pursuant to the Personal Responsibility and W ork Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Serv ices (DHS or department) administers the FIP progr am pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Ai d to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Food Assistanc e Program (FAP) (formerly known as the Food Stamp (FS) program) is establis hed by the Food St amp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Facts above are undisputed.

The penalty for non-c ompliance without good c ause is FIP EDG clos ure. BEM 233A, Page 6.

Good cause is a valid reas on for non-compliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A, Page 4.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency related ac tivities. Non-compliance of applicants, recipients, or member adds means doing any of the following, impertinent part, without good cause:

Failing or refusing to appear and participate with PATH or other employment service provider. BEM 233A, Page 2.

If a participant is active FIP and FAP at the time of FIP non-compliance, determination of FAP good cause is based on the FIP good c ause reasons outlined in the BEM 233A. For the FAP determination, if the Claimant does not meet one of the FIP good reasons, determined the FAP disqualification based on FIP deferral criteria. PEM 233B, Page 2.

The DHS- 1171, assistance application information booklet provides each application with information about the work requirements. The same information about work requirements is provided in the MI Bridges online application. Revealed information found in the information booklet, or directed to he Claimant to review his/her MI Bridges online application and the DHS-1538, work and self-sufficiency rules, with Claimant's at application, redetermination and when a control hours of participation. Importinent part reviews all the following work requirements and reasons why a person's may be deferred from work participation and the self-sufficiency requirements. BEM 230A, Page 1.

At in-take, redetermination or any time during an ongoing benefit period, when an individual claims to be disable d or indicates an inab ility to participate in work or PATH for more than 90 days because of a mental or physical condition, the Claimant should be deferred in Bridges. Condition includ es medical problems such as mental or physical injury, illness, impairment or learning disability. BEM 230A, Page 9.

Claimants meeting on e of the criteria below are temp orally deferred from employment-related activities:

Persons incapacitated due to injury, physical illness or mental illness. BEM 230B, Pages 3 and 4.

Good cause means a circum stance which is considered a valid reason for non-compliance with a requirement. BPG Glossary, Page 19.

Once a Claimant claims a disability he/s he must provide DHS ve rification of the disability **when requested**. The verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The Claimant will be required to participate in PATH as a mandatory participant; see verification sources in this item. BEM 230A, Page 10

The Claimant must provide DHS with the r equired documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. If the Claimant does not provide the requested verification, the FIP should be placed into closure for failure to provide need documentation. BEM 230A, Page 11.

Recipients determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230A, Page 11.

DHS must serve recipients who are determined work ready with limitations by MRT, when the recipient cannot be served by PATH these recipients are considered mandatory participants and must engaged in activities monitored by the Department. The specialist is responsible for assigning self-sufficiency activities up to the medically permissible limit of the recipient. BEM 230A, Page 12.

The evidence of record shows that after date of application, the Claimant was deferred from JET on October 17, 2012 based on her claim of disa bility; that she was give n

medical verification form for completion by a physician; and that she did not submit it to the DHS until the date of the administrative hearing on January 24, 2013.

Claimant claims that the DHS already had past medical information of medical examinations on Nov ember 24, 2010 and July 13, 2011 (Cla imant Exhibit 1); and that therefore, it was not necessary to s ubmit the requested information on October 17, 2011.

The requested medic al information after date of application and submitted for the first time at the hearing for the first time states the Claimant's condition is stable, that no where in the report does it state the Claimant's disability will last longer than 90 days; and that the report does not state the Claimant cannot do any work due to uncontrolled seizures (Claimant Exhibit 3, Pages 1 and 2).

Acceptable sources of medical evidence of disability must be by an MD, DO or PH.D. Any medical reports signed by a physician a ssistant without the report being cosigne d by the acceptable source are given no evidentiary weight. BEM 260, Page 7.

The medic al needs r eported dated December 11, 2012 states that the form is to be completed by an MD, DO or PH.D.; that it was only signed by a PAC and not cosigned makes it an unacc eptable source (Claimant Ex hibit 3, Pages 3 and 4). Therefore, no evidentiary weight is given to the report.

Claimant claims she is disabled from work. That is not the issue in this case. The question is whether or not she is disabled from performing JET activities.

The DHS representative of 12 y ears experience testified that the purpose of the JET program is to prepare applicants/recipient s with education and training for employment purposes. That the JET program works around an individual's physical and/or mental limitations, if possible.

The Claimant did not make herself available for a JET evaluation of her limitations by attending the JET program.

Therefore, the Claimant has not sustained her bur den of proof to establish good caus e for non-participation in JET.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that good cause for JET non-participation was not established.

Accordingly, FIP/FAP termination is **UPHELD**, and so ORDERED.

William A. Sundquist Administrative Law Judge For Maura D. Corrigan, Director Department of Human Services

William A Sundanish

Date Signed: February 6, 2013

Date Mailed: February 6, 2013

NOTICE: Administrative Hearings may or der a re hearing 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 Hear ings will not orde rarehearing 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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
- the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative Hearings
Recons ideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

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