

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant,

Reg No: 2009-28755
Issue No: 1038
Case No: ██████████
Load No: ██████████
Hearing Date:
August 20, 2009
Barry County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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, a telephone hearing was conducted from ██████████ on August 20, 2009.

ISSUE

Whether the Department properly terminated Claimant's Family Independence Program (FIP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

(1) Claimant was a recipient of FIP benefits and a mandatory Work First/Jobs, Employment and Training (WF/JET) participant.

(2) On June 11, 2009, the Department was informed by WF/JET that Claimant had excessive absences and was, therefore, in noncompliance with WF/JET requirements. (Exhibit 1)

(3) On June 11, 2009, the Department sent Claimant a Notice of Noncompliance which stated in pertinent part - "Records show that you have refused or failed to participate as required in employment and/or self sufficiency related activities for FIP, FAP and FAP.....A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance." (Exhibit 2)

(4) On June 17, 2009, a triage meeting was held. Claimant signed a First Noncompliance Letter, DHS-754, which required her to provide verification of 35 hours of schooling and job search by June 27, 2009. (Exhibit 3)

(5) Claimant's caseworker, [REDACTED], testified that Claimant was specifically advised at the triage that she needed to provide the verification(s) by Friday, June 26, 2009 since June 27, 2009 was a Saturday. Claimant testified that she was allowed to turn the verification(s) by Monday, June 29, 2009 for this reason and because it was her normal reporting day.

(6) On June 26, 2009, Ms. Winebrenner contacted WF/JET by email at 3:39 p.m. to inquire whether Claimant had turned in the verification(s). [REDACTED], WF/JET, responded at 3:55 p.m. that she had not. (Exhibit 4)

(7) On June 29, 2009, [REDACTED] contacted WF/JET by email at 7:57 a.m. to inquire whether Claimant had turned in the verification(s). [REDACTED] responded at 8:02 a.m. that she had not. (Exhibit 4)

(8) On June 29, 2009, the Department mailed Claimant a Notice of Case Action informing her that her FIP case had been cancelled because she “failed to participate in employment and/or self-sufficiency-related activities or you quit a job, were fired, or reduced your hours of employment without good cause”. (Exhibit 5)

(9) On June 29, 2009, Claimant provided the Department with the requested verification(s) at 3:45 p.m.

(10) On June 29, 2009, the Department received Claimant’s hearing request protesting the termination of her 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 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 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 DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training

opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. BEM 229, p. 1.

Federal and State laws require each work eligible individual (WEI) in the FIP and FAP 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. JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the [REDACTED]). 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. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- . Failing or refusing to:
 - .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
 - .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
 - .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

- .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP).
- .. Provide legitimate documentation of work participation.

- .. Appear for a scheduled appointment or meeting related to assigned activities.

- .. Participate in employment and/or self-sufficiency-related activities.

- .. Accept a job referral.

- .. Complete a job application.

- .. Appear for a job interview (see the exception below).

- . Stating orally or in writing a definite intent not to comply with program requirements.

- . Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.

- . Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. BEM 233A, pp. 1-2.

The Department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A, p. 7-8

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. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET.

BEM 233A, p. 3-4

Good cause should be determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or [REDACTED]. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A, p. 7

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- . For the first occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the noncompliance as noted in “First Case Noncompliance Without Loss of Benefits” below.
- . For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. BEM, p.6

If the Department’s determination is that Claimant did not have good cause, the Department shall.....discuss and provide a DHS-754, First Noncompliance Letter,

regarding sanctions that will be imposed if the client continues to be noncompliant, offer the client an opportunity to comply with the FSSP by the due date on the DHS-754 and within the negative action period.....include the number of hour of participation the client must perform to meet the compliance activity requirement. Advise the client that verification of the compliance is required by the due date on the DHS-754.

BEM 233A, p.8

In the instant case, there is no question that Claimant did not provide the verification(s) to the Department by June 27, 2009, the due date on the DHS-754 and the date required by Department policy. The question is whether the Department modified the due date by allowing Claimant to provide the verification(s) by Monday, June 29, 2009, her normal reporting day. I don't believe so. The Department testified that it was agreed that Claimant would provide the verification(s) by Friday, June 26, 2009. [REDACTED] [REDACTED] r called [REDACTED] late Friday afternoon and the first thing Monday morning to inquire whether Claimant had provided the documentation and she closed Claimant's case sometime prior to 4:00 p.m. on Monday. While [REDACTED] actions seem quite "efficient" to me, it also strongly suggests that the documents were due by 5:00 p.m. on Friday, June 26th given the due date of June 27, 2009.

With the above said, I find that the Department acted in accordance with policy in terminating Claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in

terminating Claimant's FIP benefits. Accordingly, the Department's FIP determination is AFFIRMED, it is SO ORDERED.

/S/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 31, 2009

Date Mailed: September 2, 2009

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 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.

SMB/db

cc:

