STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: Reg No: 2009-33489
                                           Issue No: 1038
                    Claimant,   Case No: █████████
                                           Load No: ██████████
                                           Hearing Date:
                                           September 24, 2009
                                           Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

<u>HEARING DECISION</u>

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 September 24, 2009.

<u>ISSUE</u>

Whether the Department properly terminated Claimant's Family Independence

Program (FIP) benefits?

<u>FINDINGS OF FACT</u>

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 May 11, 2009, the Department was informed by WF/JET that Claimant failed to attend Community Services on April 17th, April 24th, April 27th and May 11th and was, therefore, in noncompliance with WF/JET requirements. (Exhibits 1,3)

(3)   On May 22, 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, RAP and FAP as noted below: " "A meeting has been scheduled to give you an opportunity to report and verify your reasons for non-compliance. If you want to have a telephone meeting, please call to schedule it before you miss your scheduled appointment………….It is your responsibility to report and verify reasons for your actions. This is your opportunity to claim barriers that make it hard for you to work. If you do not contact me before the appointment date, I will make a good cause decision for you using the information available to me." (Exhibit 7)

(4)   On June 4, 2009, Claimant attended the triage meeting. She offered various reasons for not attending her April dates and stated that she had to attend her son's court date on May 11th and partially showed the Department a document that was folded in half because she did not want them to see certain information. The Department found no good cause for Claimant's noncompliance with WF/JET so it terminated her FIP benefits. (Exhibits 4-6)

(5)   On June 4, 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 Program Administrative

Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference

Manual (PRM).

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. PEM 229, p. 1.

Federal and State laws require each work eligible individual (WEI) in the FIP and

RAP 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 ███████████████████████). 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. PEM 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. PEM 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. PEM 233A, p. 9

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. PEM 233A, p. 4, 5

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 ▮▮▮. 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. PEM 233A, p. 9

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. PEM, Item 233A.

In the instant case, after receiving and reviewing the testimony and documentation

offered at and after hearing, I concur with the Department's finding of no good cause.

With that 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 eligibility determination is AFFIRMED, it is

SO ORDERED.

_/s/_____

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

Date Signed:September 29, 2009

Date Mailed:September 30, 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: