

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-34031

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 30, 2009

Bay County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 held on September 30, 2009. Claimant was present and testified. Yvonne Swiercz, JET Coordinator, Andy Quigley, Caseworker, and Mary Avila, JET Career Manager Michigan Works, appeared on behalf of the department.

ISSUE

Did the Department of Human Services (department) properly close claimant's Family Assistance Program (FIP) benefits for failure to participate in work-related activities?

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 was an ongoing recipient of FIP benefits who was participating in the JET program through Michigan Works.

(2) On June 23, 2009, Michigan Works requested a triage meeting because claimant was not meeting the weekly participation requirement of 20 hours of work-related activities.

(3) The department issued a Notice of Noncompliance on June 25, 2009 due to the missed participation hours indicating a triage meeting was scheduled for July 7, 2009.

(Department Exhibit 1, pg. 4)

(4) Claimant appeared for the triage meeting and indicated that her move to a domestic violence shelter affected her ability to meet the required hours of participation.

(5) The department did not find good cause for the noncompliance with work-related activities and planned to close claimant's FIP case effective July 19, 2009 and impose a three month sanction penalty.

(6) Claimant filed a hearing request on July 17, 2009 to contest the FIP determination.

(7) Claimant's FIP benefits have remained open pending the hearing outcome.

#### 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 Dependant 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 manuals.

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require

each work eligible individual (WEI) in the FIP 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. BEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). 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. BEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM Manual Item 233(a). The penalty for the first or second occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. BEM Manual Item 233(b); 42 USC 607.

Good cause is a valid reason for noncompliance with employment-related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. BEM Manual Item 230(a), BEM Manual Item 230(b); 7 CFR Parts 272 and 273. Examples of good cause include an unplanned event or factor of long commute. BEM 233A. Credible information may indicate an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to domestic violence. BEM 233A. A commute is considered long when total commuting time exceeds two hours per day, not including time to and from child care facilities, or three hours per day, including time to and from child care facilities. BEM 233A.

In the present case, claimant was an ongoing FIP recipient who was required to participate in work-related activities for 20 hours a week, or 80 hours a month. In May 2009, claimant only completed 73 hours. By June 22, 2009, claimant had only completed 14.25 hours for the month. (Department Exhibit 1, pg. 6) Claimant testified that she had good cause for the noncompliance because she moved to a domestic violence shelter in June 2009 and it was a two-hour commute to perform the community service. The department also testified that claimant had not submitted her community service time sheets since May 11, 2009. Claimant had an additional community service log for June 2009, but was not allowed to submit it in July 2009. (Department Exhibit 1, pg. 6).

Claimant did not provide any documentation to support her claim of good cause at the July 7, 2009 triage meeting. However, the department testified that they checked with the shelter, CPS, and police agencies but were unable to verify claimant was in a current domestic violence crisis when she moved to the shelter in June 2009. The department testified that when they contacted the shelter, they were informed that no verification of a current domestic violence is required before admission, and that a person with past domestic violence would also be admitted. In regards to the long commute, the department argued that other FIP recipients in the shelter face the same commute and are able to meet the JET participation requirements. Therefore, the department did not find good cause for the noncompliance in May and June 2009 because they were unable to verify claimant had a current domestic violence crisis when she moved into the shelter.

At the hearing, claimant testified she did not call the police right before she went into the shelter in June 2009. However, claimant testified that there were police reports in the months just prior to June 2009 and that she recently filed for a personal protection order. Therefore, the record was left open until October 14, 2009 for claimant to provide documentation of the

domestic violence that led to her move to the shelter in June 2009. Before the due date, claimant was able to provide verification of the dates she and her children stayed at the domestic violence shelter and of counseling and supportive service she received there. (Claimant Exhibit A, pgs. 1-2) Claimant requested an extension to obtain copies of the police reports, which was granted until October 31, 2009. Claimant was not able to provide the police reports and requested the record close without them.

Claimant stayed at the shelter May 23-25, 2009 and June 10, 2009 to July 24, 2009. (Claimant Exhibit A, pgs. 1-2) While claimant was unable to provide copies of police reports, the department testimony indicated they were aware of past domestic violence incidents. BEM 233A does require verification for any claim of good cause; however police reports are not specifically required to prove domestic violence. It is not uncommon for a person to leave the situation for a domestic violence shelter without calling the police one more time. In this case, claimant has provided verification that she sought safety in the domestic violence shelter during the relevant time period. Claimant also moved to another county after leaving the shelter. Additionally, claimant testified that the commute from the shelter to community service site is about two hours. While the department notes other FIP recipients are able to meet the participation requirements, BEM 233A does allow good cause to be found when a commute exceeds two hours per day not including time to and from child care facilities, or three hours per day, including time to and from child care facilities. A commute of two hours each way would clearly be considered a long commute under the good cause policy.

Based upon the foregoing facts and relevant law, it is found that the claimant had good cause for not meeting the participation requirements in May and June 2009. Claimant did move to a domestic violence shelter during the relevant time period and was facing a long commute to meet the participation requirements.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant had good cause for not meeting the required JET participation requirements.

Accordingly, the department's FIP determination is REVERSED. Therefore, it is ORDERED that claimant's FIP benefits remain open without penalty.

/s/  
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Colleen Lack  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: November 9, 2009

Date Mailed: November 10, 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 mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

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