

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. 2009-4122

Issue No. 1012

Case No. ██████████

Load No. ██████████

Hearing Date:

January 26, 2009

Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Judith Ralston Ellison

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 hearing was held on January 26, 2009 with Calhoun County Department of Human Services (Department). The Claimant appeared for the hearing by telephone.

ISSUE

Whether the Department was correct in imposing sanctions on Family Independence Program (FIP) and Family Assistance Program (FAP) benefits for failure to comply with Work First/Jobs, Education and Training requirements (JET)?

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 active recipient of FIP and a mandatory Work First participant since January 2007.

(2) The Department sent a DHS-2444 notifying the Claimant of a Triage scheduled August 21, 2008; and the Claimant requested a rescheduling, which was set for August 25, 2008; and the Department did not find “good cause” because [REDACTED] attendance was less than [REDACTED] hours a week. Department Exhibit 5, pp. 1-2.

(3) The Department sanctioned the Claimant’s benefits effective August 26, 2008.

(4) Claimant requested an administrative hearing on September 3, 2008.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personnel Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.1 *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).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp 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) administers the FAP program pursuant to MCL 400.1 *et seq.* and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and Program Reference Tables (PRT).

Policies and procedures relevant to this matter provide in part:

**DEPARTMENT POLICY BEM 230A, p. 1
FIP, RAP Cash**

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds **not** in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless 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 to find employment.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG), Michigan Works System. The individual sites where clients report are the Michigan Works! Agencies (MWAs).

The JET program serves employers and job seekers to ensure that employers have skilled workers and workers have good jobs that provide economic self-sufficiency.

A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties.

**REFERRALS TO EMPLOYMENT SERVICES PROVIDERS
BEM 230A, pp. 4-6**

Jobs, Education and Training Program

All Work Eligible Individuals (WEIs), unless deferred, disregarded or working 40 hours per week, must engage in employment at or above state minimum wage or participate in other MWA approved activities.

These individuals are referred to as “mandatory participants”.

- A mandatory JET participant applies for FIP (including disqualified recipients except aliens), or
- A mandatory JET participant member add applies for FIP, or
- A client is transferred from deferred to referred.

Deny FIP if a mandatory JET applicant does not attend.

GOOD CAUSE FOR NONCOMPLIANCE BEM 233A, p. 3

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. Document the good cause determination on the DHS-71, Good Cause Determination and the FSSP under the “Participation and Compliance” tab.

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS BEM 233A, pp. 5-6

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 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 3 calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.

The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

In this matter, the Department testified that at Triage on August 25, 2008 the Claimant submitted a doctor’s note for the dates of [REDACTED] through [REDACTED]. The Department testified the Claimant told the Department at Triage of the completion of more than [REDACTED] hours at [REDACTED] in [REDACTED] but the Claimant did not provide proof for her statements. The Department testified the proof submitted at Triage by the Claimant indicated less than the [REDACTED] hours per week obligation required by Work First.

The Claimant testified that the hours of attendance at [REDACTED] was wrong; and she was under stress and being treated for depression. The Claimant testified her worker at Work First advised her of her obligation as 25 hours. The Claimant testified to attending [REDACTED]

part-time for two years. The Department testified that Work First oversees Work First [REDACTED] attendance. Evidence was submitted that on [REDACTED] Work First noted in case notes:

Attends [REDACTED] required to do [REDACTED] hours for DHS will do [REDACTED] hours for school minimum and balance in [REDACTED] (job search). If does more school then fewer [REDACTED] To sign in on Fridays before 12 and turn in attendance and [REDACTED].

Work First notes from July 18, 2008; July 21, 2008, July 25, 2008 and August 11, 2008 indicate the Claimant's failure to sign in with Work First or verify [REDACTED] attendance. [REDACTED] attendance records submitted August 25, 2008 verify hours of attendance for several times periods but relevant to the period at issue July 11 through August 22, 2008, seven weeks, the Claimant completed [REDACTED] hours of [REDACTED]. The [REDACTED] attendance records show [REDACTED] hours of unexcused absences and [REDACTED] hours of excused absences.

The Claimant submitted excused absence from [REDACTED] for time periods [REDACTED] through [REDACTED] accounting for excused absence of 12 hours. But most importantly, the Claimant agreed with Work First to report [REDACTED] attendance weekly; and did not submit [REDACTED] attendance until Triage August 25, 2008.

Deducing from the above chronological order of facts, the undersigned finds based on competent, material and substantial evidence in the whole record, the Department established a proper basis for instituting JET sanctions in this matter. The Claimant did not weekly report [REDACTED] attendance as agreed; and did not participate the required [REDACTED] hours. This is reason enough for imposing sanctions under policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides the Department was correct in sanctioning the Claimant's Family Independence Program (FIP) benefits and Family Assistance Program (FAP) benefits.

Accordingly, it is ORDERED the decision of the Department is AFFIRMED.

/s/

Judith Ralston Ellison
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed February 3, 2009

Date Mailed February 6, 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.

JRE

cc:

