

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Reg. No: 2010-29569

Issue No: 1038/ 3028

Case No: 1 [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 27, 2010

St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon request for a hearing. After due notice, hearing was held on May 27, 2010.

ISSUE

Whether the department properly determined claimant's noncompliance with employment and/or self-sufficiency activities for Family Independence Program (FIP) and Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

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

(1) During August 2009 through October 2009, claimant was a recipient of FIP and FAP assistance. He was required to participate in employment and/or

self-sufficiency activities. He had been assigned to a [REDACTED] site for reporting and monitoring. Department Exhibit A, pgs. 1-3.

(2) Claimant did not participate as required during August 2009 through October 2009. Department A, pg. 3.

(3) October 8, 2009, the department sent claimant a notice of noncompliance and setting a date for a triage appointment and a notice to meet with the department caseworker. Department A; pgs 6-7.

(4) October 16, 2009, a telephone triage meeting was held. Claimant did not provide an acceptable excuse for missing the dates at issue. Department A, pg. 5.

(5) November 19, 2009, the department sent claimant written notice that claimant's assistance would be terminated effective the following benefit month. Department A, pgs 8-11.

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).

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in Jobs, Education, and Training (JET) program or other employment

services unless temporarily deferred or engaged in activities that meet participation requirements. Bridges Eligibility Manual (BEM) 230A; MCL 400.57(f); Rehabilitation Act of 1973 (Section 504); Americans with Disabilities Act of 199; Michigan Persons with Disabilities with Civil Rights Act.

The department requires clients to participate in employment and self-sufficiency related activities and accept employment when offered. The focus is to assist clients in removing barriers so they can participate in activities that lead to self-sufficiency. There are consequences for a client who refuses to participate without good cause. The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance. Depending on case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimal penalty).
- Case closure for a minimum of 3 or 12 months.

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

- Failing or refusing to :
 - Appear and participate in the JET program or other service provider
 - Complete a family automated screening tool as assigned as the first step in the FSFC process.

- Develop a family self-sufficiency plan.
- Comply with activities assigned on the family self-sufficiency plan.
- Provide legitimate documentation of work participation..
- Appear for a scheduled appointment or meeting relating to assigned activities.
- Participation in employment and/or self-sufficiency related activities.
- Accept a job referral.
- Appear for a job interview.
- State orally or in writing a definite attempt 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 employment and/or self-sufficiency related activity.

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.

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.

For a first noncompliance, if the noncompliant client meets or if a phone triage is held with a department manager and/or the JET case manager and a decision regarding the noncompliance is no good cause, the department may offer claimant the opportunity to comply. If claimant accepts the offer to comply, agrees with department's decision of noncompliance without good cause, and completes the required components to be considered in compliance, claimant's noncompliance is excused but not erased. BEM 233A; MCL 400.57(g); 42 USC 607.

Non-deferred adult members of FAP households must comply with certain work-related requirements in order to receive food assistance.

- Non-deferred adults who are not working or are working less than 30 hours per week must:
- Accept a bona-fide offer of employment.

- Participate in activities required to receive unemployment benefits if the client has applied for or is receiving unemployment benefits.

If a client is an applicant or recipient of unemployment benefits, they must follow through with the unemployment benefits program's procedures and requirements. This work requirement does not apply to a client who is clearly not eligible for unemployment benefits. Do not require a client to apply for unemployment benefits in order to receive FAP.

Disqualify FAP clients for noncompliance if the applicant or recipient is neither deferred (see deferrals in this item), nor noncompliant with one of the FAP work requirements listed above.

BEM 230B
Food Stamp Act of 1977, as amended
7CFR Parts 272 and 273
FNS Waiver 2040026

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause.
- Disqualify a FAP group member for noncompliance when all the following exist:
 - The client was active both FIP and FAP on the date of the FIP noncompliance, and
 - The client did not comply with FIP/RAP employment requirements, and
 - The client is subject to a penalty on the FIP/RAP program, and
 - The client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B), and
 - The client did not have good cause for the noncompliance.

Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. Evaluate each client's work requirement before imposing a disqualification.

- For the first occurrence, disqualify the person for one month or until compliance, whichever is longer.
- For a second or subsequent occurrence, disqualify the person for six months or until compliance, whichever is longer.

BEM 233B

Food Stamp Act of 1977, as amended
R400.3610 and 7CFR 272 and 273.5
FIP 1939 PA 280

In this case, claimant did not attend meetings scheduled to assist with job search activities. At triage, claimant asserted that he failed to attend scheduled appointments because he was sick, forgot, or was misdirected. At hearing, he asserted that he thought participation was voluntary. As this is claimant's second incidence of noncompliance (Department A, page 9), a preponderance of the evidence establishes that claimant understood participation was mandatory and that he must provide evidence of an acceptable reason for failure to comply. Claimant did not provide said evidence. Accordingly, a preponderance of the evidence establishes that claimant did not participate as required in employment and/or self-sufficiency related activities and did not provide evidence sufficient to establish good cause. Finding of Fact 1-5. Department policy requires that under the circumstances the FIP assistance be terminated. The non-complying group member must be disqualified from FAP. As such, the department has met its burden of proof and its action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant did not participate in employment and/or self-sufficiency related activities as required to qualify for the Family Independence Program and Food Assistance Program benefits.

Accordingly, the department's action is, hereby, UPHELD.

/S/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 23, 2010

Date Mailed: September 30, 2010

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 receipt date of the rehearing decision.

JAB/db

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