# STATE OF MICHIGAN STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201046180

Issue No: 1038

Case No:

Load No:

Hearing Date:

September 15, 2010 Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

#### **HEARING DECISION**

This matter is before the undersigned Administ rative Law Judge by authority of MC L 400.9 and MCL 400.37. Claimant's request for a hearing was received on July 20, 2010. After due notic e, a telephone hearing was held on Wednesday, September 15, 2010.

#### <u>ISSUE</u>

Whether the Department of H uman Servic es (Department) properly san ctioned the Claimant's Family Independence Program (FIP) case for noncompliance wit h the Jobs, Education, and Training (JET) program?

## FINDINGS OF FACT

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

- 1. The Claimant applied for FIP benefits on May 10, 2010. Department Exhibit 4.
- The Department referred the Claimant to the Jobs, Education, and Train ing (JET) program as a condition of rece iving FIP benefits on May 28, 2010.
   Department Exhibit 15
- 3. The Claimant was nonc ompliant with the JET prog ram when she failed to complete her JET assignment by July 6, 2010. Department Exhibit 13..
- 4. The Department conducted a triage meeting on July 6, 2010. Department Exhibit 17.

- 5. On July 9, 2010, the Department notified the Claimant that it would terminate her FIP benefits as of August 1, 2010. Department Exhibit 19.
- 6. The Department received the Claimant's request for a hearing on July 20, 2010, 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 Reconc iliation 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 Ai d to Dependent Children (ADC) program effective October 1, 1996. De partment policies are found in the Bridges Administrative Manual (BAM), the Bridges Elig ibility Manual (BEM), Refe rence Table Manual (RF T), and the Bridges Reference Manual (BRM).

Department policy states that clients must be made aware that public as sistance 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 as sessments 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 eligib le individual (WEI) in the FIP and RAP group to participate in the Jobs, Educati on and T raining (JET) Program or other employment-related activities unless temporar ily deferred or engaged in activities that meet participation requirements. These c lients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stab le employment. JET is a program administer ed by the Michigan Department of Labor and Economic Growth (D LEG) 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. A WEI who refuses, without good cause, to participate in as signed employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

Noncompliance of applic ants, 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 Se If-Sufficiency Plan (F SSP) or a Personal Respons ibility 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-sufficiencyrelated 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 behav ing 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 s elfsufficiency-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 nonc ompliance wit h employ ment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant per son. A claim of good c ause must be verified and doc umented 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 MWA. 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 ident ified by the client) and unmet needs for accommodation. PEM 233A, p. 9

The penalty for noncomplianc e 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 mont hs unless the client is excused from the noncompliance as noted in "First Case Noncompliance Without Loss of Benefits" below.
- For the second occur rence 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 begi ns April 1, 2007 regardless of the previous num ber of noncompliance penalties. PEM, Item 233A.

Noncompliance, without good cause, with employment r equirements for FIP/RAP(SEE PEM 233A) may affect FAP if both progr ams were active on the date of the FIP noncompliance. PEM 233b, p. 1 The FAP group member should be disqualified for noncompliance when all the following exist:

- The client was active bot h FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply wit h FIP/RAP employment requirements, and

- The client is s ubject to a penalty on the FIP/RA P program, and
- The client is not deferred from FAP work requirements, and
- The c lient did not have good c ause for the noncompliance. PEM 233B, p.2

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corres ponds with the FIP penalty (e ither three months for the first two noncomplianc es or 12 months for the third and subseq uent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

The Claimant applied for FIP benefits on May 10, 2010. The Depar tment referred the Claimant to the JET program as a condition of receiving FIP benefits on May 28, 2010. On June 28, 2010, the Claimant turned in a log of her JET assignments, which indicated that she had completed 10 hour s of Key Train computer tr aining. Department records indicate that the Claimant did not complet e the Key Train programming as indicated in her log, and without these hour s of programming the Claimant was noncompliant wit h the JET program. The Department conducted a triage meeting on July 6, 2010, where the Claimant was given the opportunity to establish good cause for her noncompliance with the JET program. The Claimant did not attend the triage meeting, and the Department did not find good cause. The Department terminated the Claimant's FIP benefits and sanction her FIP case effective August 1, 2010.

The Claim ant argued that she was prevented from completing her. Key Train assignments due to problems with her computer. The Claimant testified that she is permitted to work on Key Train assignment is from her computer at home, but that the program was not work king properly. The Claimant testified that she completed her assignment log with assignments she intended to complete, but then could not complete them do to problems with her computer.

The Department testified that the Claimant had the opportunity to complete her Key Train assignments at the JET office.

The Claimant argued that s he could have es tablished good c ause for her noncompliance with the JET program if she had been notified when it would take place.

The Department testified that is sent the Claimant notice of the triage meeting by mail to her correct mailing address. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. Stacey v Sankovich, 19 Mich App 638 (1969); Good v Detroit Automobile Inter-Insurance

Exchange, 67 Mich App 270 (1976). In this ca se, the Claimant failed to rebut the presumption of receipt.

The Department's determination that the Claimant did not have good cause for her noncompliance with the JET program is reasonable. The Department established that it acted in accordance with policy when it sanctioned the Claimant's FIP benefits case for noncompliance with the JET program.

## **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the D epartment acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program.

The Department's FIP sanction is AFFIRMED. It is SO ORDERED.

/s/	Kevin	Scully Administrative Law Judge for Ismael Ahmed, Director Department of Human Services
Date Signed:	October 6, 2010	
Date Mailed: _	October 6, 2010	

**NOTICE**: Administrative Hearings may or der 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 Hear ings will not orde rarehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

# KS/alc

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