

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

IN THE MATTER OF:



Reg. No: 201046648
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 29, 2010
Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 September 29, 2010. Claimant appeared and testified.

ISSUES

Did the Department of Human Services properly sanction Claimant's Family Independence Program (FIP) case for failure to participate in employment and/or self-sufficiency related activities?

Did the Department of Human Services properly close Claimant's Child Development and Care (CDC) case?

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 Family Independence Program (FIP) and Child Development and Care (CDC) benefits. Claimant was a mandatory participant in the Michigan Works Agency/Jobs Education and Training Program (JET). Claimant was required to participate 20 hours per week.
- (2) For the week of June 6-12, 2010 Claimant was only credited with 4 hours of participation due to incomplete/incorrect job logs.

- (3) For the week of June 13-19, 2010 Claimant was credited with 0 hours of participation due to incomplete/incorrect job logs.
- (4) For the week of June 20-26, 2010 Claimant was only credited with 5.5 hours of participation due to incomplete/incorrect job logs.
- (5) For the week of June 27- July 3, 2010 Claimant was only credited with 17 hours of participation due to incomplete/incorrect job logs.
- (6) For the week of July 4-10, 2010 Claimant was only credited with 19.25 hours of participation due to incomplete/incorrect job logs.
- (7) On July 15, 2010 the Michigan Works Agency/Jobs Education and Training Program (JET) requested a triage due to Claimant's failure to participate in employment and/or self-sufficiency related activities.
- (8) On July 19, 2010 Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a triage meeting for July 28, 2010.
- (9) On July 28, 2010 Claimant did not participate in the triage meeting in person or by telephone. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities.
- (10) On July 28, 2010 Claimant was sent a Notice of Case Action (DHS-1605) stating that her Family Independence Program (FIP) case would be sanctioned.
- (11) On July 30, 2010 Claimant submitted a timely request for hearing.

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 (formerly known as the Family Independence Agency) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

**BEM 233A
FAILURE TO MEET EMPLOYMENT AND/OR
SELF-SUFFICIENCY-RELATED REQUIREMENTS: FIP**

DEPARTMENT PHILOSOPHY

FIP

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for 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.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY

FIP

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see [BEM 228](#), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

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

See [BEM 233B](#) for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see [BEM 233C](#).

**NONCOMPLIANCE WITH EMPLOYMENT
AND/OR SELF-SUFFICIENCY RELATED ACTIVITIES**

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

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

Exception: Do not apply the three or 12 month penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens.

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- 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.

Note: FIS should clear any alerts relating to rejected JET refunds and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

- Develop a Family Self-Sufficiency Plan (FSSP).

Note: FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP completion.

- Comply with activities assigned on the 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.

GOOD CAUSE FOR NONCOMPLIANCE

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.

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

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.

Begin the sanction period with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause on the FSSP. This applies to active FIP cases, including those with a member add who is a WEI JET participant.

TRIAGE

JET participants will not be terminated from a JET program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirements within the negative action period.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box "Client Agreed by Phone". Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

Determine good cause 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.

In this case Claimant does not dispute that many of her job search logs entries did not include contact information. Claimant testified that she did not know she was supposed to include contact information. Other evidence in the record shows that Claimant was fully informed of the requirements of the job search logs. There is no good cause for Claimant's failure to meet her participation requirements at the Michigan Works Agency/Jobs Education and Training Program (JET).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

**BEM 703
CDC PROGRAM REQUIREMENTS
PROGRAM OVERVIEW**

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families.

The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is **unavailable** to provide the child care because of employment, participation in an approved activity and/or because of a health/social condition for which treatment is being received **and** care is provided by an eligible provider.

INTRODUCTION

Eligibility for CDC services exists when the department has established **all** of the following:

- There is a **signed application** requesting CDC services.
- Each parent/substitute parent (see Parent/Substitute Parent section in this item) is a member of a valid **ELIGIBILITY GROUP**.
- Each parent/substitute parent (P/SP) meets the **NEED** criteria as outlined in this item.
- An eligible provider is providing the care.
- All eligibility requirements are met.

NEED

There are four CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of:

1. Family preservation.
2. High school completion.
3. An approved activity.
4. Employment.

NEED REASONS

Determination of eligibility must be made in the following descending order.

Approved Activity

Child care payments may be approved under this need reason when client needs child care to participate in an employment preparation and/or training activity or a post-secondary education program. The activity or education program must be approved by one of the following:

- DHS.
- MWA.
- Refugee services contractor.
- Tribal employment preparation program.

- Michigan Rehabilitation Services (MRS).

Training and educational programs must be occupationally relevant and the participant must make sufficient progress.

Claimant's Child Development and Care (CDC) benefits were being provided in order for her to participate in the Michigan Works Agency/Jobs Education and Training Program (JET) doing job search activities. On her request for hearing about CDC benefits Claimant wrote that she was enrolled at [REDACTED]. At the time of the Departmental action in this case Claimant had not been approved for an education program by either DHS or MWA. When Claimant's only approved need reason (job search activities at JET) ended her CDC benefits were properly ended. Termination of Claimant's CDC benefits in this Departmental action does not preclude her from reapplying for CDC benefits and verifying attendance at [REDACTED] as a need reason.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly sanctioned Claimant's Family Independence Program (FIP) case for failure to participate in employment and/or self-sufficiency related activities.

It is also decided that Department of Human Services properly closed Claimant's Child Development and Care (CDC) case.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 4, 2010

Date Mailed: October 5, 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 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 timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

GFH/vc

cc:

