

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

IN THE MATTER OF:



Reg No. 201053680
Issue No. 1038
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 20, 2010
Saginaw 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 the claimant's request for a hearing. After due notice, a telephone hearing was held on October 20, 2010.

ISSUE

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

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 July and August 2010, claimant was a recipient of FIP. Claimant was required to participate in employment-related activities. Claimant was assigned to SVRC International for participation and monitoring. Department Exhibit A, pg 3.
2. Claimant did not participate as required.
3. August 3, 2010, the department sent claimant Notice of Noncompliance (DHS-2444) informing her of noncompliance and setting a triage appointment for August 13, 2010. Department Exhibit A, pgs 1-2.

4. At triage, the department found claimant did not have good cause for noncompliance. This was claimant's third instance of noncompliance with employment-related activities. Department Exhibit A, pg 4.
5. August 16, 2010, the department sent claimant written notice that her assistance would be terminated. Department Exhibit A, pgs 7-10.

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 1990; Michigan Persons with Disabilities 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.

In this case, claimant did not comply with work related activities as required by the FIP program. A triage was held and no good cause was found. At hearing, claimant asserted that she was having problems with her pregnancy that interfered with her ability to participate. However, claimant's doctor note indicates only that she was seen at the doctor office on July 9, 2010. It does not indicate that claimant is having a problem pregnancy or is not able to participate in employment related activities. Department Exhibit A, pg 6. Accordingly, a preponderance of the evidence establishes that claimant was able to comply with employment related activities, but did not do so. She does not have a good cause for failure to comply. Department policy requires that under the circumstances the FIP assistance be terminated. As such, the department has met its burden of proof and its action must be upheld. Finding of Fact 1-5.

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 benefits.

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

/S/
Jana A. Bachman
Administrative Law Judge
for Duane Berger, Acting Director
Department of Human Services

Date Signed: February 9, 2011

Date Mailed: February 9, 2011

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.

JAB/db

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