

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2010-17783

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 28, 2010

St Clair 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 April 28, 2010. Claimant appeared and testified.

ISSUE

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

FINDINGS OF FACT

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

(1) On June 30, 2009, Claimant submitted an application for Family Independence Program (FIP) benefits.

(2) On Thursday July 30, 2009, Claimant was mailed a Work First/Jobs Education

and Training Appointment Notice (DHS-4785 form) requiring her to attend on Monday August 3, 2009 at 8:30 am.

(3) On Monday August 3, 2009, Claimant received the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) in the mail, after 8:30 am. Claimant telephoned her DHS case worker to explain the situation and request re-assignment for the following Monday. Claimant did not get through to the worker and left a telephone message.

(4) On Monday August 10, 2009, Claimant was not on the list to attend the Michigan Works Agency/Jobs Education and Training Program (JET).

(5) Claimant made telephone calls to the DHS local office almost daily between August 11 & 26, 2009, in an effort to find out what she needed to do in order to meet the eligibility requirements for benefits. Claimant left messages and was not directed or informed on how to resolve the circumstances that caused her to miss attending the Michigan Works Agency/Jobs Education and Training Program (JET) on August 3, 2009.

(6) On August 26, 2009, Claimant was sent a Notice of Case Action (DHS-1605) stating her application was denied.

(7) On October 13, 2009, after re-applying for assistance, Claimant was successfully enrolled in the Michigan Works Agency/Jobs Education and Training Program (JET) program and is meeting her participation requirements in an educational program.

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.

FAILURE TO MEET EMPLOYMENT AND/OR SELSUFFICIENCY-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 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.

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 (DC) 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 the FAST Fall Out Report and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST non-completion.

- Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).

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 non-completion.

- Comply with activities assigned to on the Family Self Sufficiency Plan (FSSP) or PRPFC.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting.
- 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 AT APPLICATION

Noncompliance by a WEI while the application is pending results in **group** ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending must have benefits delayed.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening. (BEM 233A)

In this case Claimant was not given sufficient notice of the requirement to attend the Michigan Works Agency/Jobs Education and Training Program (JET) on August 3, 2009. Department policy states there is no good cause determination necessary for denial of a pending application. However, insufficient notice IS NOT just a good cause reason. The Department bears the burden of providing a client with notice of the actions required of them to receive benefits. The client bears the burden of keeping the Department informed of contact information. Insufficient notice occurs when the Department alone is responsible for the failure to provide a client with sufficient notice. While insufficient notice can occur during the processing of assistance application by DHS, it is rarely the actual cause of a negative action by DHS. Insufficient notice is frequently resolved through contact between a client and the Department and the resulting extension of deadlines or re-assignments.

In this case Claimant got insufficient notice and made extensive efforts to resolve the situation. In this case the denial of Claimant's application is the fault of the Department alone and is not a valid reason for denying her application dated June 30, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly deny Claimant's Family Independence Program (FIP) application for failure to participate in employment and/or self-sufficiency related activities.

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

It is further ORDERED that the Department re-instate Claimant's Family Independence Program (FIP) application dated June 30, 2009 and process it in accordance with Department policy. Claimant shall be supplemented any benefits she was otherwise eligible for but did not receive.

/s/

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

Date Signed: May 05, 2010

Date Mailed: May 6, 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.

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/alc

cc:

A large black rectangular redaction box covering several lines of text in the distribution list.