

FINDINGS OF FACT

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

1. In March, 2009, Claimant began receiving FIP, FAP and MA benefits for herself and two children.
2. Claimant fulfilled all of the job search requirements of DHS and the Michigan Works! Agency (MWA) from March 17-May 5, 2009.
3. On May 5, 2009, Claimant began part-time employment, thereby continuing to fulfill FIP work/work search requirements.
4. On May 18, 2009, Claimant was laid off from her job.
5. On August 10, 2009, DHS received an Employment and Training Action Notice from MWA stating, "Assigned to Triage."
6. On August 17, 2009, Claimant became a full-time student in the [REDACTED] [REDACTED] at the [REDACTED]. Claimant's required hours of attendance are Monday-Thursday, 1:00 p.m.-6:00 p.m.
7. On September 2, 2009, DHS sent a Notice of Noncompliance to Claimant stating, "You refused to comply with JET," on July 21, 2009. The Notice asked Claimant to attend a meeting at 2:00 p.m., Thursday, September 17, 2009. The Notice of Noncompliance also stated:

This is the first or second time a member of your FIP, RAP and/or FAP group is non-compliant. See page two for penalty information.
8. Claimant did not receive the Notice of Noncompliance.

9. Claimant did not appear for the September 17, 2009, appointment.
10. The meeting, which was to be a triage hearing to determine if there was good cause for Claimant's noncompliance with MWA, did not occur.
11. On September 17, 2009, DHS issued a Good Cause Determination terminating Claimant from all benefit programs, stating:

No good cause established. Disqualification entered (sic)
3rd offense. Missed three appointments.
12. On September 28, 2009, Claimant asked DHS [REDACTED] what date the Notice of Noncompliance was sent, and got no reply.
13. On October 6, 2009, Claimant filed a request for hearing.
14. On February 5, 2010, Claimant resubmitted her October 6, 2009, hearing request.

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 United States Code Sec. 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3101-3131. FIP replaced the Aid to Dependent Children program effective October 1, 1996. The DHS FIP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Food Assistance Program (FAP), formerly known as the Food Stamp program, was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. The DHS FAP policies

are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA or Medicaid) program was established by Title XIX of the Social Security Act and is implemented by CFR Title 42. DHS administers MA pursuant to MCL 400.1 *et seq.*, and MCL 400.105. The DHS MA policies are found in the Bridges Administrative Manual (BAM) and the Bridges Eligibility Manual (BEM).

Federal and State laws require each work-eligible individual in a FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A. All work-eligible individuals who fail, without good cause, to participate in employment or self-sufficiency related activities will be penalized. BEM 233A. Failure to appear at a JET program results in noncompliance. *Id.*

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. BEM 233A at 4. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. It also includes having an immediate family member with an illness or injury that requires in-home care by the client. *Id.* The penalty for noncompliance without good cause is FIP closure. *Id.* at 6. If good cause is established, the negative action is to be deleted. *Id.* at 12.

Timely Hearing Request

BAM 600 states as follows:

Hearings – Hearing Requests - Deadlines for Requesting a Hearing
-- All Programs

The AHR [Authorized Hearing Representative] or, if none, the client has 90 calendar days from the date of the written notice of

case action to request a hearing. The request must be received anywhere in DHS within the 90 days. BAM 600, p. 4 of 34.

As I have found as fact that Claimant filed her request for a hearing on October 6, 2009, I conclude Claimant is in compliance with this section of the manual.

Employment and/or Self-Sufficiency Related Activities


BEM 230A states that

A WEI [Work Eligible Individual] who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A, p. 1 of 28.

Based on my Findings of Fact above, I conclude that DHS failed to conduct a good-cause or “triage” hearing as required by BEM 230A. I conclude that DHS failed to conduct the necessary procedures and I am remanding the case to DHS for a triage hearing as to whether Claimant ever refused to cooperate with MWA without good cause.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES DHS’ decision to terminate Claimant’s FIP, FAP and MA benefits, and Orders DHS to initiate procedures for a triage hearing to determine whether the Claimant cooperated with MWA requirements without good cause. If it is found at the triage hearing that Claimant refused to cooperate with MWA without good cause, an appropriate penalty shall be assessed.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 1, 2010

Date Mailed: April 1, 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.

JL/pf

cc:

