

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: 2010-43031  
Issue No: 1038  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 12, 2010  
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on July 15, 2010. After due notice, a telephone hearing was held on Thursday, August 12, 2010.

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with 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 received FIP benefits and had been deferred from the Jobs, Education, and Training (JET) program.

(2) On March 24, 2010, the Department sent the Claimant a set of forms necessary to determine whether she was a work eligible individual. These forms were not returned.

Department Exhibit 1 – 2.

(3) The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits on April 9, 2010, and scheduled to attend a JET orientation on April 19, 2010. Department Exhibit 8.

(4) On April 15, 2010, the Department sent the Claimant a second copy of the forms necessary to determine whether she was a work eligible individual. These forms were not returned. Department Exhibit 1 – 2.

(5) The Claimant did not show up her scheduled JET orientation or have it rescheduled as of April 27, 2010. Department Exhibit 8.

(6) The Department conducted a triage meeting on May 26, 2010. Department Exhibit 8.

(7) On May 27, 2010, the Department notified the Claimant that it would terminate her FIP benefits as of July 1, 2010. Department Exhibit 21.

(8) The Department received the Claimant's request for a hearing on July 15, 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 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy states that clients must be made aware that public assistance 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 assessments 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 eligible individual (WEI) in the FIP and RAP 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. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stable employment. JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) 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 assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1.

Noncompliance of applicants, 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 Self-Sufficiency Plan (FSSP) or a Personal Responsibility 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-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. 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 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. 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 identified by the client) and unmet needs for accommodation. PEM 233A, p. 9

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.
- The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. PEM, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE PEM 233A) may affect FAP if both programs 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 both FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply with FIP/RAP employment requirements, and
- The client is subject to a penalty on the FIP/RAP program, and
- The client is not deferred from FAP work requirements, and
- The client did not have good cause 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 corresponds with the FIP penalty (either three months for the first two

noncompliances or 12 months for the third and subsequent 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 had been receiving FIP benefits, and had been exempted from the JET program. Since the Claimant had not been approved for disability benefits from the Social Security Administration, the Department sent the Claimant a set of forms on March 24, 2010, which were necessary to verify whether she was a work eligible individual. When these forms were not returned, the Department scheduled the Claimant for a JET orientation to begin on April 19, 2010.

The Claimant spoke with her caseworker on April 15, 2010, and asked why she had been referred to the JET program when she had previously been deferred. The Claimant's caseworker told her that she was now considered a work eligible individual and that her deferral from the JET program due to disability would end. The Claimant's caseworker then sent the Claimant an additional set of forms to verify her disability and whether her deferral would be continued.

The Claimant did not submit any disability forms to the Department or show up for her JET orientation. On April 27, 2010, the Department considered her noncompliant with the JET program and scheduled a triage meeting for May 26, 2010, where she was given the opportunity to establish good cause for her noncompliance with the JET program. The Claimant did not show up for this meeting, and the Department did not find good cause for the Claimant's noncompliance. The Department notified the Claimant on May 27, 2010, that it would terminate her FIP benefits effective July 1, 2010.

The Claimant argued that she is unable to perform a job assignment and should continue to be deferred from the JET program. The Claimant submitted medical documentation from a

physician dated February 10, 2009, which indicates that she cannot work at any job. This documentation indicated that the Claimant's disability extended for an indefinite period of time.

The Department will defer FIP applicants from the JET program that are recipients of RSDI based on disability or blindness, or eligible for RSDI based on disability or blindness who are in non-pay status. BEM 230A. Since the Claimant was not receiving RSDI benefits based on disability or blindness, it was necessary for her to be evaluated by the Medical Review Team to determine whether she was a work eligible individual. The Medical Review Team could not review the Claimant's disability claims without the Claimant's cooperation and it was necessary for her to complete the forms the Department had sent her to receive an evaluation.

Therefore, the Department's referral of the Claimant to the JET program was made according the Department policy. The Department's determination that the Claimant did not have good cause for her noncompliance with the JET program is reasonable, and the Department terminated her FIP benefits in accordance with policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's FIP benefits for noncompliance with the 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: August 20, 2010

Date Mailed: August 23, 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.

KS/vc

cc:

