

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

IN THE MATTER OF:

[REDACTED]

Reg No. 20111454  
Issue No. 1038  
Case No. 1 [REDACTED]  
Load No. [REDACTED]  
Hearing Date: December 1, 2010  
Ingham County DHS

**ADMINISTRATIVE LAW JUDGE:** Marlene B. Magyar

**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, an in-person hearing was held on December 1, 2010. Claimant and her mother personally appeared and testified.

**ISSUE**

Did the Department of Human Services (department) properly propose to impose non-compliance sanctions on claimant's public assistance benefits (FIP) in August 2010 for failure to comply with her mandatory work requirements?

**FINDINGS OF FACT**

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

1. At all times relevant, claimant was an ongoing FIP recipient in the [REDACTED].
2. At all times relevant, the department classified claimant into the group of individuals required to work or to comply with specific work-related assignments as a condition of benefit continuation.
3. Claimant's Jobs, Employment and Training (JET) history evidenced two past instances of failure to participate; consequently, the department is now proposing a 12 month FIP case closure, as authorized in the governing policy at BEM Item 233A, pgs 6 and 7.

4. On July 27, 2010, the department notified claimant in writing she was still failing to comply because the supervisor of the local thrift shop where she worked asked the department to assign claimant to another location because her work productivity was extremely low (Department Exhibit #1, pg 1).
5. This notice also advised claimant a mandatory triage meeting would be held on August 4, 2010 (Department Exhibit #1, pg 2).
6. On July 26, 2010, claimant advised the department she was pregnant again; additionally, during claimant's non-compliance hearing on December 1, 2010, she said she periodically experienced vaginal bleeding while working at the thrift shop.
7. Claimant is a single, 21-year-old mother of four children under the age of 7 with another on the way.
8. Claimant has only minimal formal education (completed 8<sup>th</sup> grade) and no driver's license.
9. Claimant is no longer in a relationship with either of the two men who fathered her children.
10. Claimant's written hearing request states the thrift shop supervisor told her she was a good person, but she couldn't keep up the required production pace.
11. Nevertheless, he acknowledged claimant did everything they asked of her while working, and also, she gave them no problems (See Request For Hearing, dated 8/23/10).
12. Additionally, on July 21, 2010, claimant's treating physician issued written verification which states claimant was suffering from ongoing, uncontrolled depression at that time; however, the department did not receive verification of this diagnosis until August 23, 2010, per date stamp (See Client Exhibit A).
13. Triage are scheduled so all partners (JET managers, assigned caseworkers and clients) can discuss any alleged barriers to participation which might possibly rise to the good cause necessary to excuse, reassign, defer, modify or reduce an individual's level of participation in the JET program.
14. As of claimant's August 4, 2010 triage date, the department was aware of her existing pregnancy and depression diagnosis.

15. As of claimant's December 1, 2010 non-compliance hearing date, claimant was still taking an antidepressant [REDACTED] as prescribed, with little change in symptoms.
16. At the non-compliance hearing, claimant stated she liked going to the thrift shop and she felt she was doing the best job she could while being there.

### **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).

The department initiated the JET Pilot Program on April 1, 2006. This program replaced the former Work First Program, implemented in 1996 under the welfare reforms initiated by President Clinton through his signing of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). This Act established a block grant program to distribute federal taxpayer dollars to state governments to fund state cash assistance programs like Michigan's FIP program, and also, required all states to develop and implement mandatory employment-related activities, rules and policies for welfare recipients.

Under JET rules a FIP recipient may be penalized for voluntarily reducing hours or earnings, for quitting a job or for being fired for misconduct/absenteeism. BEM Item 233A, pgs 2 and 3. However, none of these circumstances existed in claimant's case when the department proposed her FIP case closure.

Additionally, the department's policy at BEM Item 233A, pg 3, expressly disallows application of the penalty solely on the basis of incompetence, which is completely supported by all the documentary evidence and credible testimony presented herein.

Furthermore, certain tools have been established by departmental policy to determine whether or not sanctions are appropriate in any given case. Triage is a tool to help the department determine if good cause exists for an individual's failure to participate. The department's policy at BEM Item 233A, pg 7, specifically states in relevant part:



**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.

MBM/db

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