

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

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 received on [REDACTED] [REDACTED] appeared and provided testimony.

ISSUE

Did the department properly terminate and sanction Claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

FINDINGS OF FACT

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

1. At the time relevant to this matter, Claimant was a recipient of FIP benefits and a mandatory [REDACTED] participant.
2. On [REDACTED] Claimant informed [REDACTED] that she had received full-time employment from Specialized Staffing. [REDACTED] provided Claimant with the Employment Verification form. (Department Exhibit 4).
3. [REDACTED] called Claimant on [REDACTED] regarding the Employment Verification form. Claimant stated she would turn the form in on the afternoon of [REDACTED] (Department Exhibit 4).
4. The department mailed Claimant a letter of reengagement on [REDACTED] [REDACTED] after being unable to reach [REDACTED]

Claimant by telephone. The letter explained that if Claimant failed to make it to the [REDACTED], appointment, she would be considered noncompliant. (Department Exhibit 4).

5. As of [REDACTED] meeting, had not provided the employment verification or documentation to excuse her absences. Claimant's last date of participation was [REDACTED]. [REDACTED] requested a Triage be scheduled. (Department Exhibit 3).
6. On [REDACTED] the department mailed Claimant a Notice of Noncompliance and scheduled a Triage appointment for [REDACTED] instructing Claimant that if she could verify good cause her case would not be closed or reduced and she would have until [REDACTED] to demonstrate good cause for non-compliance. (Department Exhibits 5-6).
7. Claimant called the department on [REDACTED], and requested a telephone Triage. (Department Exhibit 15).
8. The department mailed Claimant a second Notice of Noncompliance on [REDACTED] and scheduled a Triage appointment for [REDACTED]. (Department Exhibits 7-8).
9. Claimant attended the Triage on [REDACTED] and stated that domestic issues had kept her from participating in the [REDACTED] program. [REDACTED] documentation. (Department Exhibit 3).
10. On [REDACTED] Claimant failed to provide any documentation supporting her claim of domestic abuse. Claimant's case was termed pending closure for no good cause. (Department Exhibit 3).
11. The department mailed a Notice of Case Action to Claimant on [REDACTED] be closed and sanctioned from [REDACTED] due to Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause, and her FAP benefits would decrease as a result of her FIP case being closed. (Department Exhibits 9-12).
12. On [REDACTED] Claimant submitted a hearing request protesting the closure of her FIP case and decrease in FAP benefits. (Hearing Request).

13. At the close of the hearing, Claimant faxed a police report from the Wyoming Police Department dated [REDACTED] (Claimant Exhibits 1-4).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 the department when the client applies for cash assistance. [REDACTED] program requirements, education and training opportunities, and assessments are covered by the [REDACTED] case manager when a mandatory [REDACTED] participant is referred at application. BEM 229.

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP group to participate in the Jobs, Education and Training [REDACTED] 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.

through the
The serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. A

-related activities is subject to penalties. BEM 230A.

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. BEM 233A.

█ participants will not be terminated from a █ program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. The department coordinates the process to notify the █ case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. Clients must comply with triage requirement within the negative action period.

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. BEM 233A.

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 █ BEM 233A.

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 █ 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. BEM 233A.

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. BEM 233A.

Noncompliance without good cause, with employment requirements for FIP/RAP (see BEM 233A) may affect FAP if **both** programs were active on the date of the FIP noncompliance. Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations when (1) a Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause or (2) when a Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause. At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B.

The department must disqualify a FAP group member 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 (see DEFERRALS in BEM 230B), **and**
- The client did not have good cause for the noncompliance.

In this case, Claimant was active in both FIP and FAP and required to participate in the [REDACTED] program as a condition of receiving her FIP benefits. The department found that Claimant was noncompliant for having failed to participate as required in employment and/or self-sufficiency related activities during the month of [REDACTED]

[REDACTED] required activities during the time period in question because she was a victim of domestic abuse. Claimant stated that she was afraid to give the department the requested information because she was afraid that her boyfriend would be able to access the information and she afraid of him. Claimant admitted that at no time prior to the Triage did she inform the department of her domestic abuse situation. Claimant stated that she had a police report as documentation of the domestic abuse, but could not afford to get a copy from the police department on [REDACTED], which is why she was unable to give the copy to the department. Claimant stated that she had since acquired a copy of the police report from her landlord, and the police report was entered into evidence.

A review of the police report dated [REDACTED] shows Claimant had called the police to report an assault. When the police responded, they were unable to locate Claimant. Claimant's landlord allowed them entrance into her apartment where the

police found evidence of a fight. There was no further information regarding whether Claimant ever spoke to the police. Claimant testified that her boyfriend was currently in jail because of a domestic incident with her.

According to policy, Clients may be deferred in cases of domestic violence that can reasonably be expected to interfere with job requirements. BEM 229. However, Claimant admitted that she did not inform her [REDACTED] worker of her domestic abuse issues until the Triage. The incident Claimant referred to and provided documentation for occurred on [REDACTED]. It was on [REDACTED] 0, that Claimant informed her [REDACTED] of a full time job with Specialized Staffing and received the employment verification form. Then on [REDACTED] when the WF/JET worker spoke with Claimant regarding the employment verification form, Claimant stated she would turn it in the following day. From [REDACTED] until Triage on [REDACTED], Claimant admittedly made no report to the department or her [REDACTED] of her domestic abuse situation.

As a result, this Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for her failure to participate as required in employment and/or self-sufficiency related activities during the month of [REDACTED]. Therefore, the department properly closed Claimant's FIP case for non-compliance, which resulted in the reduction of FAP benefits due to her concurrent and active FAP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's FIP case for non-compliance with [REDACTED] requirements, thus reducing her FAP benefits and the three-month sanction for FIP is AFFIRMED.

It is SO ORDERED.

[REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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.

[REDACTED]