

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.: 2011-18916
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 18, 2011
DHS County: St. Clair

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 18, 2011. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or Department) properly sanction Claimant's Family Independence Program (FIP) benefits for failure to complete work-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 [REDACTED], Claimant's mother was injured.
2. On [REDACTED] Claimant's mother underwent surgery for her injuries.
3. On [REDACTED], Claimant's mother was transferred to a rehabilitation facility.
4. On September 8, 2010, Claimant failed to appear for an appointment with JET.
5. On September 9, 2010, Claimant failed to appear for an appointment with JET.
6. On September 9, 2010, Claimant came into Michigan Works! stating he would not be able to participate due to his mother's illness.

7. On September 23, 2010, a Triage was held and the Department determined there was no good cause for missing appointments. Claimant indicated he missed the appointments because he was trying to get legal authority to handle his mother's bills and to help her get settled into the facility.
8. On September 23, 2010, a notice of case action was mailed.
9. On December 6, 2010, Claimant requested a hearing.

CONCLUSIONS OF LAW

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 administers FIP pursuant to MCL 400.10 *et seq.* and MAC R 400.3101-3131. FIP 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).

Relevant policy section BEM 233A, p. 1, states:

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:

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) or PRPFC.
- 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.

In the present case, Claimant's FIP case was closed due to failure to attend Work-First!/JET. Claimant testified his mother was injured and underwent surgery which prevented him from participating as he normally had with JET. Claimant indicated he was busy getting a power of attorney so he could handle his mother's bills and assisting her to get settled into the rehab facility. Claimant's mother was transferred by Claimant to the rehab facility from the hospital on [REDACTED]. Claimant failed to contact the JET contractor on September 8, 2010. Claimant did contact the JET worker on September 9, 2010, and explained he was unable to attend due to his mother's illness. Claimant's mother is not an immediate household member.

Relevant policy section BEM 233A, p. 3-5, states:

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. Document the good cause determination in Bridges and the FSSP under the Participation and Compliance tab.

See School Attendance BEM 201 for good cause when minor parents do not attend school.

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to JET. Do not do a new JET referral.

Good cause includes the following:

Employed 40 Hours

The person is working at least 40 hours per week on average and earning at least state minimum wage.

Client Unfit

The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

Reasonable Accommodation

The DHS employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.

No Child Care

The client requested child care services from DHS, the MWA, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

Appropriate. The care is appropriate to the child's age, disabilities and other conditions.

Reasonable distance. The total commuting time to and from work and the child care facility does not exceed three hours per day.

Suitable provider. The provider meets applicable state and local standards. Also, unlicensed providers who are NOT registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.

Affordable. The child care is provided at the rate of payment or reimbursement offered by DHS.

No Transportation

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin, religious beliefs, etc.

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

Comparable Work

The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

Long Commute

Total commuting time exceeds:

- Two hours per day, NOT including time to and from child care facilities, **or**


Three hours per day, including time to and from child care facilities.

After reviewing the above policy, Claimant's actions fail to fit within a good cause exception. Claimant's mother is not an immediate family member nor was Claimant himself injured or hospitalized. Without a good cause exception, Claimant needed to report to JET as required. Therefore, the Department properly sanctioned Claimant's case for failure to attend a Work-First!/JET appointment as required.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was acting in compliance with Department policy.

Accordingly, the Department's decision is UPHELD.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 21, 2011

Date Mailed: April 21, 2011

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.

JWO/pf

cc:

