

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-19687

Issue No: 1038

Case No: [REDACTED]

Hearing Date:

May 5, 2011

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 February 7, 2011. After due notice, a telephone hearing was held on May 5, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. Claimant was a mandatory Work First/Jobs, Education and Training WF/JET participant.
2. Claimant was deferred from the WF/JET program from November 10, 2010 through December 31, 2010. Claimant was re-engaged with the WF/JET program did not show for her JET/Work First appointment on January 6, 2011. (Hearing Summary).
3. A Notice of Noncompliance (DHS-2444) was mailed to Claimant on January 18, 2011, notifying her of the scheduled Triage meeting for January 26, 2011. (Department Exhibits 1-2).

4. On January 26, 2011, Claimant called requesting a telephone Triage. At 2 PM, 2:15 PM and 3:22 PM the department attempted to telephone Claimant for the 2 PM scheduled Triage meeting. Claimant was a no call, no show. (Department Exhibits 4-5).
5. On January 27, 2011, the department sent Claimant a Notice of Case Action closing her FIP benefit program effective March 1, 2011, for failing to participate in employment and/or self-sufficiency related activities without good cause. (Department Exhibits 7-9).
6. Claimant submitted a hearing request on February 7, 2011, protesting the closure of her FIP case. (Request for a Hearing).
7. This is Claimant's third non-compliance with the FIP program. (Department Exhibits 1-2).

### 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. 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).

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. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments are covered by the JET case manager when a mandatory JET 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 (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 Energy, Labor and Economic Growth (DELEG) 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. 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.

JET participants will not be terminated from a JET 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 MWA 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 JET. 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 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. 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.

In this case, Claimant was required to participate in the Work First/JET program as a condition of receiving her FIP benefits. The department found that Claimant was noncompliant for failing to attend her scheduled appointment on January 6, 2011. Claimant testified that she had repeatedly called her case worker in December 2010, and requested new childcare forms so that she could enroll her new childcare provider. Claimant stated that her case worker never called her back and she could not attend the training on January 6, 2011, because she did not have childcare.

The department mailed Claimant a Notice of Noncompliance when she failed to attend her JET training on January 6, 2011, informing her she was scheduled for a Triage on January 26, 2011. Claimant testified that she called her case worker and told her she would be unable to attend the January 26, 2011 Triage because she still had not received the childcare forms to enroll her new childcare provider, and hence, did not have childcare. The department submitted documentation that Claimant called her case worker on January 26, 2011, requesting a telephone Triage. The department then attempted to call Claimant at the scheduled time of 2 PM on January 26, 2011, and again at 2:15 PM and 3:22 PM. Claimant did not answer, did not call and did not show for the Triage. As a result, the department found no good cause for Claimant's absence from JET on January 6, 2011.

Claimant testified that she did not request a telephone Triage. Claimant stated she had only left a message that she would be unable to attend the 2 PM Triage meeting on January 26, 2011, and expected her case worker to call her back to reschedule it. Claimant also stated that there were no messages from the department on her answering machine from January 26, 2011, so she never knew that the department had called. Claimant was unable to provide any records of calling or emailing her case worker, and the department had no record of her calling requesting childcare forms since August 2010. The only other message in Claimant's file was that Claimant had called requesting the telephone Triage, but had not left a telephone number. Claimant verified that the department had called the correct telephone number on January 26, 2011, but reiterated there was no message on her answering machine from the department, and she had not asked for a telephone Triage.

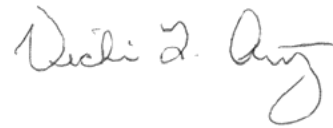
The Administrative Law Judge finds Claimant failed to provide the necessary evidence that she asked for an adjournment of her January 26, 2011 Triage appointment or had informed her case worker that she would be unable to attend due to a lack of childcare.

Therefore, based on the material and substantial evidence presented during the hearing, Claimant failed to show good cause for her absence from her JET appointment on January 6, 2011, and the department properly closed Claimant's FIP case for non-compliance.

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 WF/JET requirements and the twelve month sanction is AFFIRMED.

It is SO ORDERED.



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Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 5/6/11

Date Mailed: 5/6/11

**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.

VLA/ds

