

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

IN THE MATTER OF:

[REDACTED]  
[REDACTED]  
[REDACTED]

Reg. No: 201120047  
Issue No: 1038  
Case No: [REDACTED]

Hearing Date:  
May 3, 2011  
Ingham 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 January 10, 2011. After due notice, a telephone hearing was held on Tuesday, May 3, 2011.

**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 until February 1, 2011.
2. The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP.
3. The Claimant was noncompliant with the JET program for refusing suitable employment.
4. The Department conducted a triage meeting on January 5, 2011.
5. On January 5, 2011, the Department notified the Claimant that it would sanction her FIP benefits as of February 1, 2011.

6. The Department received the Claimant's request for a hearing on January 10, 2011, 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.

In this case, the Claimant was an ongoing FIP recipient, and the Department had referred her to the JET program as a condition of receiving JET benefits. The Claimant was noncompliant with the JET program for refusing suitable employment.

Refusing suitable employment will result in removal from the JET program. Refusing suitable employment means doing any of the following:

- Voluntarily reducing hours or otherwise reducing earnings.
- Quitting a job.
- Firing for misconduct or absenteeism. BEM 233A.

The Department conducted a triage meeting on January 5, 2011, where the Claimant was given the opportunity to establish good cause for her noncompliance with the JET program. The Department did not find good cause. On January 5, 2011, the Department notified the Claimant that it would sanction her FIP benefits for noncompliance with the JET program.

The Claimant argued that she did have good cause for her noncompliance with the JET program. The Claimant testified that there were multiple barriers that resulted in her loss of employment. The Claimant testified that her father was in the hospital, that she was the victim of a domestic violence incident, and that she suffers from anxiety and depression. The Claimant disputes the Department's determination that she was terminated on November 1, 2010, and testified that November 5, 2010 was her last day of work.

The Claimant submitted medical documentation showing that her father was admitted to a hospital on November 2, 2010. The Claimant submitted a police report documenting a violent incident that occurred at 2:05 a.m. on November 5, 2010. The Claimant submitted medical documentation that she has been treated for anxiety and depression.

In the absence of any evidence to the contrary, the Claimant's evidence establishes that her father was admitted to a hospital on November 2, 2010. The Claimant has not established that her father's condition was a barrier to her compliance with the JET

program. While the Claimant's father may suffer from severe illness or injury, the Claimant failed to establish that her father's admission to a hospital caused her to miss work and or lose her job.

In addition, the Claimant's medical documentation concerning her treatment for anxiety and depression also fails to establish good cause for her noncompliance with the JET program. The Claimant's medical documentation shows that she has been seen for anxiety and depression since June of 2010. The documentation does not indicate that here anxiety and depression prevented her from working, or that it was a cause of her loss of employment.

The Claimant testified that on November 5, 2010, she reported to a police officer that her husband had assaulted her. The Claimant submitted a copy of a police report supporting her testimony. The Claimant argued that as a victim of domestic violence, she had good cause for her noncompliance with the JET program. The Claimant testified that she was not terminated from employment on November 1, 2010. The Claimant testified that November 1, 2010, was her last day of employment and that she was terminated on November 5, 2010, which was the day of the assault.

The Department's representative testified that the Claimant reported on November 15, 2010, that she had lost her job. Through a collateral contact with the Claimant's former employer, the Department determined that the Claimant had been terminated from her job for failing to show up to work without notice for two days. The Claimant does not dispute that she was fired from her job. Being fired from a job for misconduct or absenteeism is considered to be a refusal of suitable employment by the Department.

The Department notified the Claimant on December 28, 2010, that a triage meeting would take place on January 5, 2010, where she would have the opportunity to establish good cause for her noncompliance with the JET program. This notice included instructions to the Claimant that it is her responsibility to report and verify reasons for her actions, and claim barriers that make it hard for you to work. The Claimant failed to present a copy of the police report at the triage meeting, but relied on her description of the incident to establish good cause.

This Administrative Law Judge finds that the Department provided the Claimant with the opportunity to establish good cause at the triage meeting and that the Department's determination that the Claimant did not have good cause for her noncompliance with the JET program was not an abuse of its discretion. Whether the Department would have reached a different conclusion if the Claimant had submitted the police report at the triage meeting is irrelevant, and this Administrative Law Judge finds that there is insufficient evidence to overturn the Department's good cause determination.

Regardless of whether the assault was a barrier to the Claimant's employment that was beyond her control, it is not disputed that she was terminated from employment for a violation of her employer's work rules. Even if the Claimant was prevented from showing up at work because of the assault, no evidence was offered during the hearing

to establish why the Claimant failed to notify her employer that she would not be reporting to work. It was for this violation of her employer's work rules that the Claimant was terminated from her employment, which the Department considers to be a refusal of suitable employment.

Therefore, the Department has established that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with the JET program.

**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 Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program.

The Department's Family Independence Program (FIP) sanction is **AFFIRMED**. It is **SO ORDERED**.

/s/ \_\_\_\_\_  
Kevin Scully  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: May 16, 2011

Date Mailed: May 17, 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 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/tg

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