

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

IN THE MATTER OF:



Reg. No: 201123752
Issue No: 1038
Hearing Date: June 7, 2011
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, an in-person hearing was held on June 7, 2011.

ISSUE

Did the DHS properly deny claimant's FIP case on the grounds of claimant's spouse's failure to comply with the JET/Work First 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. On December 28, 2010 claimant applied for FIP, FAP, and MA for himself and his family.
2. The department subsequently opened FAP and MA. There is no issue herein regarding the FAP and the MA.
3. Claimant's spouse was required to attend Work First as a condition of eligibility before FIP could be opened. Claimant alleges a medical exemption and there is no issue herein regarding claimant.
4. On January 10, 2010, claimant's spouse was scheduled to attend Work First. Claimant's spouse did not attend. Claimant called the department indicating he needed a new battery but subsequently indicated a sibling purchased the battery for him. Claimant also requested new tires and insurance in order for his wife to travel in the vehicle to attend Work First. The department authorized new tires and start up auto insurance. The

department rescheduled claimant's spouse to attend Work First on February 14, 2011.

5. Claimant's spouse failed to attend on February 14, 2011.
6. The department denied the FIP on the grounds that claimant failed to comply with the Work First Program.
7. There is no evidence in the file that claimant requested gas reimbursement.
8. The department approved over [REDACTED] in transportation costs on behalf of claimant. Claimant's calendar cap is [REDACTED].

CONCLUSIONS OF LAW

DEPARTMENT PHILOSOPHY

FIP, RAP Cash

The Family Independence Program (FIP) and Refugee Assistance Program (RAP) are temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP and RAP engage in employment and self-sufficiency related activities so they can become self-supporting.

DEPARTMENT POLICY

FIP, RAP Cash

Federal and state laws require each work eligible individual (WEI) in the FIP and RAP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity 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 employment. Apply FIP policy to RAP cash clients unless a separate RAP cash policy is mentioned in BEM 233C.

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. JET case managers use the One-Stop Management Information System also known as the OSMIS to record the clients assigned activities and participation. In this item the OSMIS is referred to as the Management Information System.

WEIs not referred to JET will participate in other activities to overcome barriers so they may eventually be referred to JET or other employment service provider. DHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP).

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. For more about penalties refer to:

- BEM 233A - FIP-related penalties.
- BEM 233C - RAP Cash penalties.

See BEM 230B and BEM 233B for FAP employment requirements.

INFORMING CLIENTS

The DHS-1171, Assistance Application Information Booklet provides each applicant with information about the work requirements. Review information found in the information booklet and the DHS-1538, Work and Self-Sufficiency Rules with clients at application, redetermination

and when a change in circumstances might affect the person's required hours of participation. Review all of the following information:

- Work requirements.
- Rights and responsibilities.
- Consequences of their failure to comply.
- Right of deferred persons to participate.
- Reporting requirements, including income verification and the DHS-630, Weekly Activity Log, defined later in this item.

MANDATORY PARTICIPATION IN EMPLOYMENT SERVICES

All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in employment services. WEIs who are temporarily deferred are required to participate in activities that will help them overcome barriers and prepare

MANDATORY PARTICIPANTS DELAYED REFERRAL TO EMPLOYMENT SERVICES

WEIs meeting one of the following criteria are only temporarily not referred to an employment service provider because they may continue to count in the state's federal work participation rate. They are required to participate in activities that will increase their full potential, help them overcome barriers and prepare them for employment or referral to an employment services provider as soon as possible.

If the WEI refuses or fails to provide verification of a deferral when required, refer him/her to JET.

Notify the MWA/JET service provider immediately by phone or email when a client who was previously referred is granted a temporary deferral.

Information entered in the data collection will create the following participation/deferral reasons.

Meeting Participation Through Education

Dependents

Clients who are WEIs and full-time students in elementary or high school are noted here.

Age 16 or 17

Full-time high school students are given the participation of Secondary Education. They are neither required to submit a FAST, develop an FSSP, nor participate in employment services as long as they continue full-time school attendance.

Age 18 or 19

Full-time high school students expected to graduate (or complete the requirement to graduate) by age 20 are also given the participation of Secondary Education. They are neither required to submit a FAST, develop an FSSP nor participate in employment services as long as they continues full-time school attendance.

Adults

Minor Parent Grantees

Minor parent grantees who are full-time high school students are regarded as fully engaged in required activities even though his/her education does not meet the federal requirements. Enter the education activity on the FSSP under the **Goal and Activities** tab, **Non-Core Activities, High School Completion/GED**. Enter 30 hours per week of actual participation upon receipt of verification the student is attending.

Policy regarding Direct Support Services states in part:

DEPARTMENT PHILOSOPHY

Department of Human Services (DHS) assists families to achieve self-sufficiency. The primary avenue to self-sufficiency is employment. DHS

and the Michigan Works! Agencies (MWAs) provide Direct Support Services (DSS) to help families become self-sufficient.

PAYMENT AUTHORIZATIONS

FIP, CDC, MA, FAP Family, FAP Non-Family, TLFA

Follow the authorization procedures below for ESS, FSS, and the \$50 FAP employment and training reimbursement payments.

Payment Maximums

Payment maximums are the combined total of the payments made by DHS and MWA.

If DHS pays \$300 for a car repair and the MWA later pays \$600 for the same client, the payment maximum of \$900 has been reached.

Bridges will pre-fill any data fields on the DHS-4663 known to the system. Bridges edits prohibit support service entries that exceed payment maximums, frequency limits, or local office allocation limits.

DSS payment maximums by service can be viewed under **benefit issuance, DSS, payment caps**. Review payment maximums prior to approving a new request for a capped service.

COVERED SERVICES

Child Care for Orientation, Compliance Activity, or to Attend FSS Activity

FIP, CDC, MA, FAP Families

Upon reviewing the DHS-619, Jobs, Education and Training Survey, local offices may use either CDC and/or DSS child care payments to complete:

- The first week of the assigned JET, refugee contractor or, tribal program or transitional housing activity.
- An employment-related compliance activity for FIP or FAP families See BEM 233A, Failure to Meet Employment Requirements: FIP, and BEM 233B, Failure to Meet Employment Requirements.

FIS-assigned FSS activities.

- DHS must provide child care when a client identifies this barrier to attending JET or other employment-related activity.
- Determine eligibility for the CDC program for assignments beyond the first week or for employment (See BEM 702, 703, 704,705 and BEM 710).
- Authorize DSS child care payments on a DHS-4663, Employment and Training Expenditures Authorization through MIS. The local office fiscal unit makes the payment.
- Advise clients that to be eligible for DHS payment, they must use an eligible provider. Eligible providers are those monitored by the DHS Bureau of Children and Adult Licensing or enrolled by DHS; see BEM 704.

Transportation Allowance

FIP, CDC, MA, FAP Family

This allowance includes, but is not limited to, travel between the person's home and:

- Participation in JET or other employment-related activity until the MWA is able to provide transportation.
- Child care provider.
- Educational facility.
- Job club.
- Training site.
- Specific job interview.
- Community service site (except for TLFA recipients participating in a Food Assistance Community Service Program).
- FIS-assigned FSS activity site or state-wide counseling contract assignment.
- Job site.

Job site transportation is limited to three months. Before the three-month limit is reached, the DHS specialist, MWA case manager and client should

address transportation issues to ensure the client can meet these expenses when the allowance ends.

Bus Tickets/ Tokens

FIP, CDC, MA, FAP FAMILY, FAP NON-FAMILY

Bus tickets/tokens are part of a bulk purchase already paid for by the local office designee. Bridges does not require entry of a dollar amount or unit amount. Bus tickets/tokens are distributed in units that reduces the inventory of this bulk purchased item.

Bus tickets/tokens may be given for a client to transport children to child care facilities when the client is working or participating in employment-related activities.

Fiscal offices have developed a sign-out method to track issuance of bulk purchased items to associate a particular client to the service.

Payment Methods for Transportation

Local offices should develop the payment method(s) to best meet local needs and resources. Examples include:

- Payment directly to the participant.
- Payment to a provider for a specific participant.
- Payment to a provider for a number of participants.
- Bulk purchase of bus tickets/tokens or gas cards to be issued to individual participants but paid for or redeemed as a group.

If more than one payment method is used, the local office must ensure against duplicate assistance. Standard accounting procedures and security for vouchers and bus tickets/tokens must be in place.

Care should be taken when purchasing bulk gas or gift-type cards that guarantees client's are not able to purchase prohibited items. Best practice is to work with a provider and obtain cards that only allow for the purchase of gas, clothing, or other expense intended by the card.

Vehicle Repair

FIP, CDC, MA, FAP Family

You may authorize vehicle repairs for each participant for a vehicle that is the primary means of transportation for employment-related activities, **even if** public transit is available. The total DHS/MWA cost of repairs may not exceed \$900 including any repairs done in the previous 12 months. Clients may contribute any amount over \$900 prior to DHS payment.

For FIP recipients, refer to [Clients Served by MWA](#) earlier in this item. In a two-parent family, if both parents are participating and need **separate** vehicles, each may receive vehicle repairs.

Prior approval is required for this service except for emergency repairs that occurred outside of DHS office hours. Before authorizing a major repair, ensure that all of the following conditions are met:

- An eligible group member owns the vehicle.
- The client requesting the service has a valid drivers license.
- The repair is expected to make the vehicle safe and roadworthy including new tires, headlamps, batteries, etc.

If the client requesting the service does not have a valid drivers license, but has someone else use their vehicle to drive them, document the name of the person driving the vehicle. Verify a valid drivers license only if the information received is questionable.

A vehicle may be repaired for a currently employed client if the client:

Needs a vehicle to accept a verified offer of a better job **or** needs a vehicle to retain current employment; **and** has a demonstrated ability to maintain a job.

A vehicle may be repaired for a client who is not currently employed if the client needs a vehicle to accept a verified job offer; **or** needs a vehicle to participate in family self-sufficiency activities that will prepare the client for employment

A lease vehicle may be repaired for a client when there is at least 12 months left in the lease agreement.

Any payment authorized by DHS for estimates or towing are **not** included in the \$900 limit. See [Other ESS](#) later in this item.

Vehicle Purchase

FIP, CDC, MA, FAP Family

You may authorize up to \$2,000 to purchase, **not** lease, a vehicle to be used as a participant's primary means of transportation for work or employment-related activities. For FIP recipients, refer to [Clients Served by MWA](#) earlier in this item. Vehicle purchase is limited to **once** in a client's lifetime. Prior approval is required for this service.

In a two-parent family, if both parents are **required** to participate and need **separate** vehicles, each may receive the service.

A vehicle may be purchased for a currently employed client if the client needs a vehicle to accept a verified offer of a better job; **or** needs a vehicle to retain current employment; **and** has a demonstrated ability to maintain a job.

A vehicle may be purchased for a client who is not currently employed if the client:

- Has a demonstrated ability to maintain a job.
- Needs a vehicle to accept a verified job offer.
- Needs a vehicle to participate in family self-sufficiency activities that will prepare the client for employment.

In addition, ensure **all** of the following before authorizing the purchase:

- Public transportation is not reasonably available (such as, considering the location and hours of the employment, child care or long commute as defined as good cause in BEM 233A), **and** the person has no other means to reach the job site reliably.
- The client has the ability to afford any payments, insurance and other expenses associated with owning the vehicle.
- The client has a valid Michigan driver's license.
- The vehicle must be registered to an eligible group member and insured, at a minimum, for public liability and property damage (PLPD). Insurance, license plates, or drivers education classes are covered under Other ESS later in this item and do not reduce the \$2,000 lifetime limit.

A vehicle inspection by a licensed mechanic is required.

Vehicle purchases made by DHS are not exempt from use and sales tax collected by the Secretary of State.

Any payment authorized by DHS for the inspection or sales tax is not included in the \$2,000 limit; see [Other ESS](#) later in this item.

Deceptive Motor Vehicle Dealer Practices

If DHS personnel become aware that a recipient is being victimized regarding deceptive motor vehicle dealer practices, advise the:

- Secretary of State's Bureau of Regulatory Services at (800) 292-4204.
- Attorney General's Consumer Protection Division at (877) 765-8388.

Other ESS

FIP, CDC, MA, FAP Family

You may authorize other ESS directly needed to obtain, maintain, or enhance a person's employment when funds are **not** available from other sources.

Examples:

One-time work-related expenses such as:

- Payment for license fees (auto, trade certification).
- Purchase of professional tools.
- Business start-up expenses.
- Vehicle inspection, sales tax on vehicle purchases, estimate or towing.
- Auto insurance.
- License plates.
- Drivers education.

Complete a DHS-110, DSS Repay Agreement, when authorizing auto insurance premiums. Send the original copy to the Accounting Office with the DHS-4663, Employment and Training Expenditures Authorization. Retain a copy in the case record.

Other policy indicates where an individual fails to comply the department is required at application to deny the FIP application. There is no policy regarding time period sanctions and/or triage. An individual who has been denied can reapply.

In this case, most of the issue turns on whether claimant requested gas. Claimant contended at the administrative hearing he asked for gas assistance and was not given it and thus, could not travel to the local office as he did not have any gas money. The department indicates that there was never a request for gas and if there were, there was still some money left under the cap for approval for gas.

Claimant had no evidence to support a request for gas.

The undersigned Administrative Law Judge is charged with a duty to make an assessment as to whether or not the evidence meets the preponderance of evidence standard. In this case, the department presented credible and substantial evidence of having complied with DHS policy and procedure with regards to Work First. There are numerous memorandums documenting requests and disbursements to claimant

including a [REDACTED] check for insurance. This Administrative Law Judge finds that the department met its burden of proof.

Claimant however, did not have any evidence of having requested gas. Moreover, claimant could have reapplied immediately and received gas but indicated that they were not about to complete the very long 1171 application once again.

This Administrative Law Judge finds that the preponderance of the evidence standard in this case weighs in favor of the department and finds that the department correctly denied. The department's actions are upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial of FIP is UPHELD.

/S/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 13, 2011

Date Mailed: June 13, 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.

201123752/jgs

JGS/db

cc:

