

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-26716

Issue No: 1038

[REDACTED]

Muskegon 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 March 17, 2011. After due notice, a telephone hearing was held on May 25, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly terminated and sanctioned 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. Claimant was a mandatory WF/JET participant. (Hearing Summary).
2. Claimant failed to call or attend JET and submit job search logs the weeks of October 31, 2010 through November 6, 2010; November 7, 2010 through November 13, 2010; November 28, 2010 through December 4, 2010; December 12, 2010 through December 18, 2010; December 19, 2010 through December 25, 2010, and December 26, 2010 through January 1, 2011. (Department Exhibit 11).
3. On January 11, 2011, JET referred Claimant to Triage for poor program participation and failure to meet program requirements. (Department Exhibit 11).

4. On February 17, 2011, the department mailed Claimant a Notice of Noncompliance because she failed to participate as required in employment and/or self-sufficiency related activities. The department informed Claimant that she was scheduled for an appointment on February 24, 2010, to demonstrate good cause for noncompliance. The notice explained that failure to show good cause could result in loss of benefits. (Department Exhibits 9-10).
5. On February 24, 2011, Triage was held and Claimant attended. Claimant reported that her son had been missing since January 1, 2011, and he was removed from Claimant's case. During the Triage, Claimant stated that she had been taking her daughter to the hospital for seizures which had prevented her from attending JET. The department rescheduled the Triage for March 7, 2011, to allow Claimant the opportunity to obtain verification of the hospital visits. (Department Exhibit 8).
6. On March 7, 2011, Triage was held for the second time and Claimant did not call or show for the appointment. The department found Claimant did not show good cause for failing to follow through with her JET requirements. (Department Exhibit 6).
7. The department mailed Claimant a Notice of Case Action on March 8, 2011, informing Claimant that her FIP program was being closed as of April 1, 2011, because she failed to participate in employment and/or self-sufficiency related activities. (Department Exhibits 3-5).
8. Claimant submitted a hearing request on March 17, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
9. On March 21, 2011, the department mailed Claimant a Pre-Hearing Conference instructing her a conference was scheduled on March 28, 2011 at 1:30 P.M., to address her concerns regarding her hearing request, or she could sign the hearing withdrawal form and return it to the department. Claimant did not call or show for the appointment. (Department Exhibits 2, 4; Hearing Summary).
10. This is Claimant's first non-compliance with the FIP program. (Department Exhibits 9-10).

#### 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 JET/Work First program as a condition of receiving her FIP benefits. Claimant failed to call or attend JET and submit job search logs the weeks of October 31, 2010 through November 6, 2010; November 7, 2010 through November 13, 2010; November 28, 2010 through December 4, 2010; December 12, 2010 through December 18, 2010; December 19, 2010 through December 25, 2010, and December 26, 2010 through January 1, 2011. A Triage was scheduled on February 24, 2011. Claimant appeared for the Triage and explained that she had been unable to participate in JET because she had been taking her daughter to the hospital during those time frames for seizures.

The department rescheduled the Triage for March 7, 2011, and informed Claimant that she had to bring in medical documentation to the March 7, 2011 Triage in order for the

department to find she had good cause. On March 7, 2011, Claimant failed to appear for the Triage and did not call.

Claimant testified that she was never received anything in writing regarding the March 7, 2011 Triage date and had only been told during the February 24, 2011 Triage, that she had 10 days to submit the medical documentation. Claimant stated that she dropped off the supporting medical documentation within 10 days to the front desk of the DHS office. The department had no record of receiving documentation from Claimant. At the close of the hearing, Claimant did provide documentation that on November 16, 2010 she had taken her daughter to the emergency room for seizures. However, that did not show good cause for the missed 6 weeks of JET requirements.

The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for missing her JET appointments and failing to submit her job search logs. As a result, 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 noncompliance with WF/JET requirements and the 3-month sanction is AFFIRMED.

It is SO ORDERED.

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

Date Signed: 5/26/11

Date Mailed: 5/26/11

**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

■ [REDACTED]