

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-29220

Issue No: 1038

[REDACTED]

May 25, 2011

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 28, 2011. After due notice, a telephone hearing was held on [REDACTED]. 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. On February 1, 2011, the department mailed Claimant a Jobs, Education and Training Notice informing her that she was to attend WF/JET on February 7, 2011 between 8:30 A.M. and 12 P.M. The notice explained that if she failed to attend, her application would be denied. (Department Exhibit 6).
3. On March 2, 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 March

15, 2011, to demonstrate good cause for noncompliance. The notice explained that failure to show good cause could result in loss of benefits. (Department Exhibits 4-5).

4. The department mailed Claimant a Notice of Case Action on March 15, 2011, informing Claimant that her FIP program was being closed as of April 1, 2011, because she failed to attend WF/JET and failed to attend the Triage to demonstrate good cause for noncompliance. (Department Exhibits 2-3).
5. Claimant submitted a hearing request on March 28, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
6. This is Claimant's first non-compliance with the FIP program. (Department Exhibits 4-5).

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. Claimant failed to attend JET on February 7, 2011. A Triage was scheduled on March 15, 2011. Claimant failed to show for the Triage and failed to telephone the department to reschedule it. The department found that Claimant was noncompliant for not attending her Work First/JET class and for failing to attend her Triage to demonstrate good cause.

Claimant testified that she had not moved into her current home until February 25, 2011, and as a result did not receive any mail from the department while still living at the Veterans Center. Claimant submitted a letter from her landlord who verified that Claimant did not move into her current address until February 25, 2011. However, the department's records show Claimant was approved for SER for relocation into her current home on January 25, 2011, and her address was updated to her current address at the same time the SER was approved. Claimant admitted that she had not informed the department that she was still living at the Veterans Center after she submitted the paperwork and was approved for the SER for relocation into her current home. Furthermore, although Claimant testified that she was still living at the Veterans Center until February 25, 2011, the department approved Claimant's application for assistance on February 4, 2011, in paying her electric bill and in paying to turn the electricity on in her new home.

Claimant stated that after she moved into her current home on February 25, 2011, there was a problem with her mailbox, so she was not receiving her mail until her landlord relocated the mailbox. Claimant submitted a letter from the US Postal Service dated February 28, 2011, instructing her to relocate her mailbox off her front porch down to the bottom of her steps to the right of the walkway for the safety of the mail carrier. The letter asked Claimant to move the mailbox no later than March 11, 2011, to avoid further delay of her mail. Claimant submitted a letter from her landlord which showed he moved her mailbox on March 15, 2011, at the request of the postal service. Claimant testified that when she received her mail on March 18, 2011, that was when she found out she had missed her Work First/JET appointment on February 1, 2011, and her Triage from March 15, 2011. Claimant admitted that she never informed the department of her late move into her home or of her problems with receiving mail.

While Claimant submitted the requested documentation, it did not resolve several issues, the first being that department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM 105. Claimant admittedly never informed the department that she did not move into her new home until February 25, 2011, during the hearing.

Along those lines, is the issue of when she actually moved into her home. Claimant was approved for the SER relocation on January 25, 2011, and for the SER assistance with turning on the electricity in her new home on February 4, 2011. Furthermore, the Jobs, Education and Training Appointment Notice was mailed by the department to Claimant on February 1, 2011, to her new home. Claimant testified that she was living at the Veterans Center until February 25, 2011, yet the mail was not returned to the department and Claimant states she received this Notice on March 18, 2011, after her landlord moved the mailbox.

Therefore, despite the documentation submitted by Claimant, and due to the numerous discrepancies in Claimant's statements, 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 Work First/JET appointment on February 7, 2011 and failing to appear for her Triage appointment on March 15, 2011. 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: 6/2/11

Date Mailed: 6/3/11

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]