

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████  
██████████  
██████████

Reg. No: 2011-3134  
Issue No: 1038  
Case No: ██████████  
Load No: ██████████  
Hearing Date:  
December 7, 2010  
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

**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, a hearing was held on December 7, 2010. Claimant appeared and testified.

**ISSUE**

Did the Department of Human Services properly sanction Claimant's Family Independence Program (FIP) case for failure to participate in employment and/or self-sufficiency related activities?

**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 an ongoing recipient of Family Independence Program (FIP) benefits. Claimant and her partner ██████████ were assigned to begin participation in the Michigan Works Agency/Jobs Education and Training Program (JET) on August 23, 2010.
- (2) On August 23, 2010 both Claimant and ██████████ attended JET orientation.
- (3) On August 24, 2010 neither Claimant nor ██████████ completed JET Day 1 classes.
- (4) On August 25, 2010 Claimant called in to JET and requested time off for both her and ██████████ due to housing and other issues. Claimant was

told they both needed to report back on August 31, 2010 to do JET Day 1 classes.

- (5) On August 31, 2010 neither Claimant nor ██████████ completed JET Day 1 classes.
- (6) On September 1, 2010 neither Claimant nor ██████████ completed JET Day 2 classes.
- (7) On September 2, 2010 both Claimant and ██████████ came to JET 2 hours late. Claimant brought some documentation as the reasons for all the missed hours. The documentation was only sufficient to allow 4 hours of excused absence.
- (8) On September 14, 2010 the Michigan Works Agency/Jobs Education and Training Program (JET) requested a triage due to Claimant and ██████████ failure to participate in employment and/or self-sufficiency related activities.
- (9) On October 13, 2010 both Claimant and ██████████ were sent a Notice of Non-Compliance (DHS-2444) which scheduled a triage meeting for October 21, 2010.
- (10) On October 18, 2010 Claimant submitted a request for hearing.
- (11) On October 21, 2010 Claimant participated in the triage meeting but ██████████. ██████████ did not. The Department determined there was no good cause for Claimant and ██████████ failure to participate in employment and/or self-sufficiency related activities and that Claimant's cases would be sanctioned.

### **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 (formerly known as the Family Independence Agency) 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) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

**BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR  
SELSUFFICIENCY-  
RELATED REQUIREMENTS: FIP**

**DEPARTMENT  
PHILOSOPHY**

**FIP**

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities.

Consider further exploration of any barriers.

**DEPARTMENT  
POLICY**

**FIP**

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see [BEM 228](#), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

See [BEM 233B](#) for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see [BEM 233C](#).

### **NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELFSUFFICIENCY RELATED ACTIVITIES**

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

**Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

**Exception:** Do not apply the three or 12 month penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens.

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- 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.

**Note:** FIS should clear any alerts relating to rejected JET refunds and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

- Develop a Family Self-Sufficiency Plan (FSSP).

**Note:** FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP completion.

- Comply with activities assigned on the 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.

**GOOD CAUSE FOR  
NONCOMPLIANCE**

**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.

**NONCOMPLIANCE  
PENALTIES FOR  
ACTIVE FIP CASES  
AND MEMBER ADDS**

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 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 3 calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.

The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

Begin the sanction period with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause on the FSSP. This applies to active FIP cases, including those with a member add who is a WEI JET participant.

**TRIAGE**

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. Locally coordinate a 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, offer a phone conference at that time. Clients must comply with triage requirements within the negative action period.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box "Client Agreed by Phone". Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

Determine good cause 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.

At this hearing Claimant asserted [REDACTED] had gone back to prison for a parole violation and asked for time to present documentation to verify the assertion. The record was left open but no additional evidence has been submitted by Claimant. Evidence that was presented does not establish good cause for either Claimant or [REDACTED]. [REDACTED] failure to meet their participation requirement in employment and/or self-sufficiency related activities.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly sanctioned Claimant's Family Independence Program (FIP) case for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHHELD.

/s/ \_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
For Duane Berger, Interim Director  
Department of Human Services

Date Signed: January 6, 2011

Date Mailed: January 6, 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.

GFH/tg

cc:

