

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

**IN THE MATTER OF:**



Register #: 2011 34661  
Issue Code: 1038  
Case #: [REDACTED]  
Hearing Date: June 16, 2011  
District: Macomb County DHS (12)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 16, 2011. The claimant appeared and testified. Tanisha Taul FIS Jet Manager appeared and testified on behalf of the Department.

**ISSUE**

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction closing the Claimant's FIP case and reducing the Claimant's FAP benefits for noncompliance with work-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. The Claimant was a FIP cash assistance recipient.
2. The Claimant was assigned to attend the Work First program.
3. The Claimant was sent a notice of non compliance dated March 9, 2011, scheduling a triage on March 17, 2011. Exhibit 1
4. The Claimant did not receive the triage notice on time because her mail box was full and the post office removed her mail from the box requiring her to pick up her mail at the post office.
5. The Claimant acknowledged that it was her responsibility to empty her mail box.
6. The Claimant did not attend the triage because she got the notice late. She attempted to contact the Department to reschedule the triage after it was held.
7. The Department conducted a triage and found the Claimant had no good cause for non compliance with the Work First requirements.

8. The Department found that the Claimant was absent on February 1, 2011 and February 3, 2011. As a result of these absences, the Claimant was charged with 12 hours of absence for those dates.
9. The Department also found non compliance resulting from non completion of her job logs on February 4, 2011 (4 hours) and February 7, 2011 (2.5 hours) for a total of 6.5 hours not completed.
10. The Department closed the Claimant's FIP case on April 1, 2011 for non compliance with work related activities and sanctioned the Claimant's case with FIP closure for a three month period. Exhibit 2
11. At the conclusion of the hearing, the hearing record was left open until Tuesday June 21, 2011 close of business, for the Claimant to submit proof of illness and a doctor's excuse for her daughter or herself for the dates she was absent in [REDACTED].
12. The Claimant did not submit any further documentation of good cause after the hearing.
13. The Claimant's daughter is an epileptic and attends special education classes. As a result of her daughter's condition, the Claimant had provided the Work First program a note from her doctor indicating that she was only able to work part time.
14. The Claimant requested a hearing on May 4, 2011, protesting the closure of her FIP cash assistance case.

### **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 R400.3101-3131. 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 Bridges Reference Manual (BRM).

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless 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 to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called "noncompliance". BEM 233A defines noncompliance as failing or refusing to, without good cause:

...Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider..." BEM 233A p. 1.

However, a failure to participate can be overcome if the client has good cause. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, JET participants cannot be terminated from a JET program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

Before the Administrative Law Judge can review a proper good cause determination, there must first be a determination of whether the claimant was actually non-participatory with the hour or attendance requirements for the JET program.

Based on the record presented, the Claimant was found in non compliance due to very specific non compliance dates where she did not attend Work First as required during February 2011, for several weeks. The Claimant was absent February 1 and 3, 2011 and was assessed 12 hours for non attendance. The claimant was also assessed hours of non attendance for failure to complete her job logs on February 4, 2011 (4 hours) and February 7, 2011 (2.5 hours) for a total of 6.5 hours not completed. In total, the Claimant's absences exceeded the 16 hours per month allowed for absence from the Work First program.

Overall good cause for non attendance and completion of job search logs was not shown. Based upon the evidence presented at the hearing, it is clear that the Claimant was in non compliance with Work First requirements for February 2011, due to non attendance and failure to submit her job search logs.

The Claimant testified that she did not attend the triage because she did not receive the notice of non compliance on time. The notice was properly addressed to the Claimant and is presumed to be received. In this case, the Claimant's testimony clearly established that the notice was not received due to her failure to empty her mailbox.


More importantly, she did not present any proof at the hearing that either she or her daughter was ill on the dates she was absent or any valid good cause excuse for failing to turn in her job search logs.

Based on evidence provided by the Department at the hearing, it correctly determined that the Claimant was in non compliance and found no good cause.

After a careful examination of the documentary evidence provided by the Department, and the testimony of the witnesses, the Administrative Law Judge has determined that the Department's finding of no good cause and the imposition of a three month sanction closing the Claimant's FIP Cash Assistance case is correct and is AFFIRMED.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination of no good cause and its action imposing a three month closure of the Claimant' FIP case for non compliance with work related activities is correct and in accordance with Department policy and is AFFIRMED.



Lynn M. Ferris  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 06/23/11

Date Mailed: 06/24/11

**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 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.

LMF/dj

cc:

