

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

IN THE MATTER OF

[REDACTED]

Reg. No: 2011-35166

Issue No: 1038

[REDACTED]

Clare 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 May 13, 2011. After due notice, a telephone hearing was held on June 29, 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. On November 16, 2010, Claimant attended Triage by telephone and informed the department that she had no intention of ever participating with WF/JET because she is disabled. (Department Exhibit 18).
3. On February 8, 2011, Claimant returned the Semi-Annual Contact Report to the department. Claimant's address on the report was [REDACTED]. [REDACTED] Claimant testified that she did not change the address on the report when she turned it in because she had already mailed in her shelter verification form with her new address of [REDACTED]. [REDACTED]. (Department Exhibits 14-15).

4. On February 25, 2011, the department mailed Claimant a Jobs, Education and Training Appointment Notice informing her of her appointment with WF/JET on March 7, 2011. The notice explains that ongoing FIP recipients who do not cooperate with meeting self-sufficiency goals may have their cases closed. (Department Exhibit 5).
5. On March 2, 2011, the Jobs, Education and Training Appointment Notice informing her of her appointment with WF/JET on March 7, 2011, was returned to the department and the case was pended because the department did not know Claimant's location. (Hearing Summary).
6. On March 9, 2011, Claimant called the department and reported her address change. Claimant informed the department she had moved on February 1, 2011. (Department Exhibit 7).
7. On April 29, 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 May 10, 2011, to demonstrate good cause for noncompliance. The notice explained that failure to show good cause could result in loss of benefits. (Department Exhibits 12-13).
8. The department mailed Claimant a Notice of Case Action on May 11, 2011, informing Claimant that her FIP program was being closed as of June 1, 2011, because she failed to participate in employment and/or self-sufficiency related activities and because this was at least her third noncompliance, her group would not receive benefits from June 1, 2011 through May 31, 2012. (Department Exhibits 16-17).
9. Claimant submitted a hearing request on May 13, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
10. This is at least Claimant's third non-compliance with the FIP program. (Department Exhibits 16-17).

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. 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 Reference Tables Manual (RFT).

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 WF/JET program as a condition of receiving her FIP benefits. Claimant failed to attend her appointment with JET on March 18, 2011. A Triage was scheduled on May 10, 2011. Claimant failed to attend the Triage and the department found no good cause for her not attending her March 18, 2011 WF/JET appointment.

Claimant admitted that she received the notice of her Triage appointment for May 10, 2011, but testified that she had been told never to attend Triage and instead, request a hearing. Claimant stated that she never received the notice to attend the March 18, 2011, WF/JET training because the department mailed it to the wrong address. The appointment notice was mailed on February 25, 2011, to Claimant's address on [REDACTED] t. Claimant stated she moved to her current address of [REDACTED] in February 2011, and had to mail the department two shelter verification forms because the department lost the first one. The department had no record of sending Claimant a second shelter verification form to complete.

The department submitted Claimant's Semi-Annual Report received by the department on February 8, 2011, listing Claimant's address as [REDACTED]. Claimant stated that she did not change her address on the Semi-Annual Report when she submitted it

because she had already submitted her shelter verification form with the new address and did not see the point. The Report clearly instructs the client that if they have moved to report the change in address below.

The department provided a document dated March 9, 2011, when Claimant had called and provided her new address on [REDACTED]. Claimant stated that this telephone call was in addition to her filling out and mailing the first shelter verification form which she claimed the department lost.

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 appointment on March 18, 2011. This especially in light of the fact that Claimant admitted she received the Notice of Noncompliance instructing her to attend the May 10, 2011 appointment and provide good cause for missing her March 18, 2011. The Notice of Noncompliance clearly states that "it is your responsibility to report and verify reasons for your actions. This is your opportunity to claim barriers that make it hard for you to work. If you do not contact me before your appointment date, I will make a good cause decision for you based on information available to me." Based on Claimant's failure to attend the Triage, or call, and her failure to submit any documentation showing good cause for not attending WF/JET on March 18, 2011, the department found no good cause.

Claimant also testified that she is disabled and has filed for disability and is awaiting a hearing. Claimant's testimony supports the undisputed notes from Claimant's last Triage on November 16, 2010, where Claimant stated, "she had no intention of ever participating with JET because she's disabled." At that time, Claimant was instructed on the need for her to provide documentation to the department that she was disabled. Claimant's response was that she was filing a hearing. Based on Claimant's testimony at the hearing, she will not attend WF/JET because she is disabled. Her failure to provide documentation to support her assertion of disability is compounded by her failure to report her new address on the Semi-Annual Report and her failure to attend Triage. As a result, the department properly found no good cause for Claimant not attending the WF/JET training on March 18, 2011, and 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 12-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: 7/5/11

Date Mailed: 7/5/11

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]