

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-36398
Issue No. 1038
Case No. [REDACTED]
Hearing Date: July 14, 2011
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, July 14, 2011. The Claimant appeared and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") due to the failure to comply with the Jobs, Education, and Training ("JET") program without good cause?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a FIP recipient and was required to participate in the JET program.
2. On April 14, 2011, a triage was held regarding JET non-compliance resulting in a finding of No Good Cause. (Exhibit 2.)
3. As a result of the No Good Cause determination, the Claimant signed the First Non-Compliance Letter stating she would resume JET participation on April 15th, which included 20 – 40 hours of job search activities. (Exhibit 1.)

4. The Claimant was excused from participation, supported by a physician statement, on April 21, 2011.
5. On April 25th and 26th, the Claimant failed to sign in or report to her case manager.
6. On April 27, 2011, the Department scheduled the Claimant's case for closure effective June 1, 2011.
7. On June 31, 2011, the Department received the Claimant's timely written request for hearing.

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 Michigan Administrative Code Rules 400.3101-3131. Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("RFT").

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program or other employment service provider. BEM 233A. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. The first and second occurrences of non-compliance result in a 3 month FIP closure. BEM 233A. The third occurrence results in a 12 month sanction.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty

duration. BEM 233A. A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

If No Good Cause is found and it is the first non-compliance, individuals are provided an opportunity to comply. BEM 233A. The non-compliance remains on the individual's record even if the client complies, although it is excused. BEM 233A. If the client fails to provide verification of the compliance, the three month sanction applies. BEM 233A. Clients may be excused for participation up to 16 hours a month. BEM 233A

In this case, the Claimant was found to have No Good Cause for her JET non-compliance. The Department offered the Claimant the opportunity to comply by resuming JET participation which included 20 – 40 hours of job search. The Claimant accepted the offer and returned to JET on April 15, 2011. The Claimant understood that she was to sign in at 8:30a.m. and report to her JET/WF case manager.

The Claimant was excused from participation on April 21st. On April 25th and 26th, the Claimant presented to JET/WF prior to 8:30 a.m. and failed to sign in or report to her case manager. The Claimant did, however, receive job search logs from another case manager. The Claimant asserted that she was unable to stay because her son was ill. The Claimant failed to call the case manager to inform him of her situation. As a result, the Claimant was considered a no call, no show for each day.

The focus of this decision is whether the Department acted in accordance with Department policy when it terminated the Claimant's FIP case based on information known at the time of termination. At termination, the Claimant was working under a First Non-Compliance letter and was required to sign in at 8:30 a.m. and report to her case manager. The Claimant was aware of these requirements. Despite having possible good cause, the Claimant never communicated with her case manager regarding her situation with her son. At the point of termination, based on the case manager's best available information, the Claimant was a no call, no show for both April 26th and 27th and had exceeded 16 hours of absences.


Ultimately, the Department established it acted in accordance with Department policy when it terminated the Claimant's FIP case due to JET non-compliance. Accordingly, the Department's actions are upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department acted in accordance with Department policy when it terminated the Claimant's FIP benefits.

Accordingly, it is ORDERED:

1. The Department's determination is AFFIRMED.
2. The three-month FIP sanction for JET non-compliance is imposed.



Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 15, 2011

Date Mailed: July 15, 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 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.

CMM/cl

cc:

