

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

IN THE MATTER OF:



Reg. No: 2011-36725

Issue No: 1038



Kalkaska 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 June 8, 2011. After due notice, a telephone hearing was held on July 13, 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 January 5, 2011, Claimant signed a WF/JET Program Agreement and JET Assignments form. The JET Assignments form stated that "firing from a job results in non-compliance and notification of DHS." (Department Exhibits 12-13).
3. Claimant was fired from her employer, Grand Traverse Resort, on April 13, 2011. (Department Exhibit 14).
4. On May 16, 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 26, 2011, to demonstrate good cause for noncompliance. The notice explained that failure to show good cause could result in loss of benefits. (Department Exhibits 1-2).

5. The department mailed Claimant a Notice of Case Action on May 27, 2011, informing Claimant that her FIP program was being closed as of July 1, 2011, because she failed to participate in employment and/or self-sufficiency related activities. (Department Exhibits 4-7).
6. Claimant submitted a hearing request on June 8, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
7. This is Claimant's second non-compliance with the FIP program. (Department Exhibits 4-5, 8).

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 of that decision. 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 Licensing and Regulatory Affairs (LARA) 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 was fired from her employment on April 13, 2011, and as a result was required to reengage in WF/JET. Claimant notified WF/JET on April 13, 2011 of the termination. Claimant was instructed to reengage with WF/JET. Claimant informed WF/JET that she was enrolled in school, and Claimant was told to provide proof of her enrollment the following Wednesday to determine whether she could be deferred from participating in WF/JET.

Claimant testified that she attended WF/JET the following Wednesday and told the receptionist she was there to see her case manager. Claimant stated she was told he was teaching. Claimant testified that she had the paperwork with her showing she was enrolled, but when asked, she stated that she never thought to leave it there for her caseworker. WF/JET had no record of Claimant being there and Claimant admitted she did not sign in, but only informed the receptionist that she was there to see her case worker. When asked why she had not called her case worker, Claimant stated that she had lost his phone number.

Claimant attended Triage on May 26, 2011. Based on Claimant's failure to reengage in WF/JET, the department found no good cause and closed Claimant's FIP case. Claimant testified during the hearing that she brought her school paperwork to the Triage. When questioned, the department reported that they never received it. Claimant admitted that the paperwork had been in her car during the Triage.

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. In this case, Claimant stated that if she had received something in writing telling her on what day to appear she would have attended WF/JET. Claimant did not deny being told to report to WF/JET, but stated that when she did, her case worker was busy so she left without leaving him copies of the documentation he had requested. Claimant stated she did not call him because she lost his phone number, and thought nothing more about it until she received the notice of noncompliance with the Triage date.

The Jet Program Agreement signed by Claimant on January 5, 2011 clearly states, "reporting requirements continue as long as you receive FIP program funds." Therefore, the Administrative Law Judges finds Claimant was on notice that it was her responsibility to report to WF/JET when instructed to do so and produce documentation

when requested. Claimant provided no valid reason for her noncompliance, especially in light of the fact she could have called her case worker, and from signing the Jet Program knew it was her responsibility to do so.

As a result of the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for not re-engaging in WF/JET and 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: 7/19/11 _____

Date Mailed: 7/19/11 _____

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

