

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

IN THE MATTER OF:

[REDACTED]

Registration No: 2011-39356
Issue No: 1005; 1038
Case No: [REDACTED]
Hearing Date: August 3, 2011
Montcalm County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

In accordance with MCL 400.9, MCL 400.37, and 1999 AC, R 400.903 a hearing was held in this matter on August 3, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly terminated and sanctioned Claimant's Family Independence Program (FIP) benefits, and reduced his monthly Food Assistance Program (FAP) allotment, based on a determined first noncompliance with Work First/Jobs, Education, and Training (WF/JET) requirements.

FINDINGS OF FACT

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

1. At all times relevant to this matter, Claimant was receiving FIP and FAP benefits as part of a group size of three. (Department's Exhibit 7.)
2. To remain eligible for FIP cash benefits, Claimant was required to participate in the WF/JET program. (Department's Exhibits D-1; D- 2; D-3.)
3. On March 4, 2011, Claimant's case manager received notification from the Department's Medical Review Team (MRT) that Claimant "should be employable on or before April 1, 2011." (Department's Exhibit D-2.)
4. Based on this information, the case manager submitted a WF/JET appointment notice to Claimant on March 4, 2011, instructing him to

attend WF/JET orientation beginning April 4, 2011. (Department's Exhibit D-1.)

5. Claimant failed to attend the WF/JET orientation appointment. A triage meeting was subsequently scheduled for April 13, 2011. (Department's Exhibit D-3.)
6. Claimant attended the April 13, 2011, triage meeting and admitted that he was noncompliant without good cause. He agreed to provide the Department with medical documentation supporting his claim that he could not meet WF/JET work requirements because he was medically incapable. Claimant was to provide this documentation on or before April 18, 2011. (Department's Exhibit D-4.)
7. On April 18, 2011, Claimant provided the Department with a single page document, signed by a physician's assistant, which stated that Claimant was capable of work, but with certain restrictions. (Department's Exhibit D-6.)
8. Claimant was provided until May 16, 2011, to submit documentation sufficiently supporting his assertion that he was medically incapable of meeting WF/JET work activity requirements. (Department's Exhibit D-5.)
9. Claimant failed to provide the Department with any further medical documentation. Because of his noncompliance, the agency notified Claimant on May 16, 2011, that his FIP cash benefits case would close, effective June 1, 2011, that he would be sanctioned from the program for three months, and that he would be removed from his FAP group for at least one month, effective the same date.
10. From the Department's action in this matter, Claimant filed a request for hearing. (Claimant's hearing request, dated June 30, 2011.)
11. A hearing was held on August 3, 2011. Claimant was given until August 8, 2011, to provide the Administrative Law Judge sufficient documentation supporting his assertion that he was medically incapable of participating in the WF/JET program. The only document received was a copy of the Department's Exhibit D-6 noted above.

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1999 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in

suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). Indeed, an applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.

Here, the Department found that no good cause existed for Claimant's determined first noncompliance with WF/JET requirements. From this determination, Claimant filed a request for hearing.

The FIP was established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 8 USC 601, *et seq.* The Department administers the FIP in accordance with MCL 400.10, *et seq.*, and Rules 400.3101 through 400.3131. The FIP replaced the Aid to Dependent Children (ADC) program, effective October 1, 1996. Agency policies pertaining to the FIP are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The program's purpose is to provide temporary cash assistance to support a family's movement to self-sufficiency. BEM 230A, p. 1. The focus is to assist clients in removing barriers so that they may participate in activities leading to self-sufficiency. BEM 233A, p. 1

Federal and State laws, from which the Department's policies derive, require each work eligible individual (WEI) in a FIP group to participate in the WF/JET program, unless temporarily deferred or engaged in activities that otherwise meet the program's participation requirements. BEM 230A, p. 1. The purpose of the WF/JET program is to increase a client's employability and to obtain employment. BEM 230A, p. 1.

A WEI who fails or refuses, without good cause, to participate in assigned employment or other self-sufficiency related activities is subject to penalties. BEM 230A, p. 1; BEM 233A, p. 1. These penalties include the following:

- A delay in eligibility at the time of application;
- Ineligibility;
- Case closure for a minimum of three or twelve months.

BEM 233A, p. 1.

Noncompliance in engaging in WF/JET employment or self-sufficiency related activity requirements generally means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with the [WF/JET] [p]rogram or other employment service provider.

- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP [Family Self-Sufficiency Plan] process.
- Develop a[n] . . . FSSP.
- 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[.]
- 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, pp. 1-2.]

Good cause for not complying with WF/JET employment or self-sufficiency related activities means "a valid reason for noncompliance . . . that [is] based on factors that are beyond the control of the noncompliant person." BEM 233A, p. 3. A claim of good cause must be verified. BEM 233A, p 3. Good cause includes the following:

- Employed forty hours
 - The person is working at least 40 hours per week on average and earning at least the State minimum wage.

- Client unfit
 - The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity.
- Illness or injury
 - The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.
- Reasonable accommodation
 - The Department, employment services provider, contractor, agency, or employer failed to make reasonable accommodations for the client's disability or the client's needs related to the disability.
- No child care
 - The client requested child care services from the Department, the Michigan Works Association (MWA), or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable, and within reasonable distance of the client's home or work site.
- No transportation
 - The client requested transportation services from the Department, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.
- Illegal activities
 - The employment involves illegal activities.
- Discrimination
 - The client experiences discrimination on the basis of age, race, disability, gender, color, national origin, religious beliefs, etc.

- Unplanned event or factor
 - Credible information indicates an unplanned event or factor that likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:
 - a. Domestic violence
 - b. Health or safety risk
 - c. Religion
 - d. Homelessness
 - e. Jail
 - f. Hospitalization
- Comparable work
 - The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.
- Long commute
 - Total commuting time exceeds:
 - a. Two hours per day, NOT including time to and from child care facilities, or
 - b. Three hours per day, including time to and from child care facilities.

BEM 233A, pp. 4-5.

The penalty for noncompliance without good cause is closure of the FIP case as follows:

- First occurrence of noncompliance = FIP case closure for not less than three calendar months, unless the client is excused from the noncompliance. See BEM 233A, pp. 8-9.
- Second occurrence of noncompliance = FIP case closure for not less than three calendar months.
- Third and subsequent occurrence of noncompliance = FIP case closure for not less than twelve months.

BEM 233A, p. 6.

Here, Claimant asserted that he was medically incapable of participating in the WF/JET program. Despite numerous opportunities to provide documentation in support of this assertion, Claimant failed to do so. The only evidence provided by Claimant was a one page document, signed by a physician's assistant, which stated in relevant part:

Work Status:

May work with the following restrictions until follow up appointment . . .

Elevate affected extremity as needed
Sedentary work only

[L]imited walking. [Department's Exhibit D-6.]

WEIs meeting the following criterion are only temporarily not expected to participate in the WF/JET program:

- Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months, and which prevents participation in the program. (Short-term incapacity.)

BEM 230A, pp. 7, 11.

Persons suffering from a short-term incapacity may be deferred from the WF/JET program for up to three months. BEM 230A, p. 11. Verification of short-term incapacity must be provided by a medical doctor (M.D.), or doctor of osteopathy (D.O.). BEM 230A, p. 11.

For persons who assert a disability or inability to participate in WF/JET for more than ninety days, the MRT determines whether long-term disability exists. BEM 230A, p. 12.

The only medical document submitted by Claimant as evidence in the present matter was signed by a physician's assistant and failed to indicate that Claimant was incapable of participating in the WF/JET program. Moreover, the Department presented at least some evidence demonstrating that Claimant was capable of engaging in WF/JET activities beginning April 1, 2011.

Viewing the testimony and other evidence in its entirety, it cannot be reasonably concluded that Claimant met his burden of demonstrating good cause for his first noncompliance with WF/JET work requirements in this matter.

The FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through

federal regulations found in 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. As with FIP, agency policies pertaining to the FAP are found in the BAM, BEM, and RFT. The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230A.

Noncompliance with WF/JET requirements for FIP may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233B, p. 1. A FAP penalty for noncompliance may apply in the following situation:

- The client is active in both FIP and FAP, and becomes noncompliant with a cash program requirement (e.g., WF/JET activity) without good cause.

BEM 233B, p. 1.

The Department disqualifies a FAP group member for noncompliance when all the following exist:

- The client was active in both FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply with FIP employment requirements, and
- The client is subject to a penalty on the FIP program, and
- The client is not deferred from FAP work requirements, and
- The client did not have good cause for the noncompliance.

BEM 233B, p. 2.

Where there is an established first occurrence of noncompliance without good cause, a person is disqualified from the FAP for a period of one month or until compliance, whichever is longer. BEM 233B, p. 4.

Here, Claimant was an active participant in the FAP program at the time of his first FIP non-compliance. FAP benefits were therefore properly reduced as a result of this noncompliance based on: (1) his removal from the FAP group; and (2) the inclusion of his last FIP grant amount in the FAP budget. See BEM 233B, pp. 1, 2, 4.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department properly determined that Claimant was noncompliant with WF/JET work requirements without good cause. Based on this determination, the agency properly terminated and sanctioned Claimant's FIP benefits

for at least a three-month period, effective June 1, 2011, and properly reduced his FAP monthly benefit allotment, effective on the same date.

Therefore, the Department's actions in this matter are UPHELD.

It is SO ORDERED.

Mark Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

Claimant may appeal this decision and order to the circuit court for the county in which she resides within 30 days of the mailing of this decision and order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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