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

IN THE MATTER OF

[redacted]

[redacted]
Kent 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 27, 2011. After due notice, an in-person hearing was held on September 7, 2011. Claimant and her husband 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 May 17, 2011, Claimant attended JET orientation and it was explained that she would have to make up the time she missed due to her doctor appointment and court date. (Department Exhibit 4).

3. On May 19, 2011, Claimant notified her case manager that she would not be in because her day care provider was unable to watch her child. Claimant was informed she needed to make up the hours she had missed and Claimant indicated she understood. (Department Exhibit 4).

4. On May 23, 2011, Claimant left a voice mail informing her case manager she would not be in due to an appointment, but she would be in tomorrow. (Department Exhibit 4).

5. On May 25, 2011, Claimant called and spoke with her case manager and informed her that her child care provider would be unable to watch her child and she would be going to the doctor on May 26, 2011 and would contact her case manager after the appointment. (Department Exhibits 3-4).

6. On May 27, 2011, Claimant's JET case worker mailed Claimant a letter for re-engagement for June 1, 2011 at 3:00 P.M. (Department Exhibit 3).

7. On June 1, 2011, Claimant was a no call, no show for her mandatory re-engagement appointment. (Department Exhibit 3).

8. On June 3, 2011, JET requested a Triage with DHS due to Claimant not attending in-take on May 24 and May 26, 2011 and failing to attend the mandatory re-engagement on June 1, 2011. (Department Exhibit 3).

9. On June 6, 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 June 15, 2011, to demonstrate good cause for noncompliance. The notice explained that failure to show good cause could result in loss of benefits. (Department Exhibits 7-8).

10. The department mailed Claimant a Notice of Case Action on June 15, 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 and because this was her first noncompliance, her group would not receive benefits from July 1, 2011 through September 30, 2011. (Department Exhibits 9-10).

11. Claimant submitted a timely hearing request on June 27, 2011, protesting the closure of her FIP benefits. Claimant continued to receive FIP benefits pending the hearing because she returned her hearing request timely. (Request for a Hearing).

12. This is Claimant's first non-compliance with the FIP program. (Department Exhibits 7-10).

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), 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 failed to attend her intake appointments on May 24, 2011 and May 26, 2011. Claimant also failed to attend her mandatory re-engagement meeting on June 1, 2011. A Triage was scheduled on June 15, 2011, which Claimant did not attend and she did not submit documentation to support good cause for missing the intake appointments or mandatory re-engagement meeting. As a result, the department found that Claimant was noncompliant for failing to show good cause for not completing her JET requirements.

Claimant's testimony was contradictory as to why she did not attend the May 24, 2011 and May 26, 2011 intake appointments. Initially, Claimant stated that she had found child care, then later stated she had not found childcare. Through Claimant's testimony, it was evident that Claimant is unwilling to leave her daughter with anyone for childcare and believes her Post Traumatic Stress Disorder excuses her from attending JET. Claimant was unable to provide any evidence of the disorder and admitted that her doctor had not provided her with a medical excuse from JET. The JET policy was explained to Claimant.

Based on the material and substantial evidence provided during the hearing, this Administrative Law Judge finds Claimant has failed to show good cause for missing her JET appointments on May 24, 2011, May 25, 2011 and June 1, 2011. Therefore, 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: 9/14/11

Date Mailed: 9/14/11

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