

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

IN THE MATTER OF:



Midland County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 dated July 6, 2011. After due notice, a telephone hearing was held on August 25, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly terminate and sanction Claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements after she failed to attend a medical appointment for purposes of obtaining a medical deferral?

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 had been deferred from WF/JET due to medical reasons. According to the Medical Review Team (MRT), Claimant was scheduled to undergo an examination from a psychiatrist and internist. (Department Exhibit 4).
2. On May 18, 2011, the department mailed Claimant a Medical Appointment Confirmation Notice (DHS-800) which scheduled her for an appointment with an internist on June 6, 2011. (Department Exhibit 7).

3. Claimant did not show for her medical appointment with the internist on June 6, 2011. (Department Exhibit 7).
4. On June 10, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) which closed her FIP for failure to attend the medical appointment. (Department Exhibits 2-6).
5. Claimant requested a hearing on July 6, 2011. (Request for a 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 (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 Program Reference Manual (PRM).

With regard to FIP, the department requires its clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233 A. The department's focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. BEM 233A. But there are consequences for a client who refuses to participate, without good cause. BEM 233A.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. BEM 233A. The department's stated goal is to bring the client into compliance. BEM 233A. The department recognizes that noncompliance may be an indicator of possible disabilities. BEM 233A. In this regard, the department does explore whether the client is confronted by any barriers. BEM 233A.

With regard to FIP, a Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. BEM 233A.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. BEM 233A. 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) or PRPFC.
- .. Appear for a scheduled appointment or meeting related to assigned activities.
- .. Provide legitimate documentation of work participation.
- .. 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, pp. 1-2.

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. BEM 233A. A claim of good cause must be verified and documented for member adds and recipients. BEM 233A.

Per department policy, good cause includes the following:

- . The person is working at least 40 hours per week on average and earning at least state minimum wage.
- . 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. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. BEM 233A.
- . The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client. BEM 233A.
- . The DHS, 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. BEM 233A, pp. 3-4.
- . The client requested Child Day Care Services (CDC) from DHS, the MWA, or other employment services provider prior to case closure for noncompliance and CDC is needed for a CDC-eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A.
- . The care is appropriate to the child's age, disabilities and other conditions. BEM 233A.
- . The total commuting time to and from work and child care facilities does not exceed three hours per day. BEM 233A.
- . The provider meets applicable state and local standards. Also, providers (e.g., relatives) who are NOT registered/licensed by the DHS Office of Child and Adult Services must meet DHS enrollment requirements for day care aides or relative care providers. See PEM 704.
- . The child care is provided at the rate of payment or reimbursement offered by DHS. BEM 233A.
- . The client requested transportation services from DHS, the MWA, or other employment services provider prior

to case closure and reasonably priced transportation is not available to the client. BEM 233A.

- . The employment involves illegal activities. BEM 233A.
- . The client experiences discrimination on the basis of age, race, disability, gender, color, national origin, religious beliefs, etc. BEM 233A, p. 4.
- . Credible information indicates an unplanned event or factor which 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:
 - . Domestic violence.
 - . Health or safety risk.
 - . Religion.
 - . Homelessness.
 - . Jail.
 - . Hospitalization. BEM 233A.
- . The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit. BEM 233A.
- . The client has a long commute where the total commuting time exceeds:
 - . Two hours per day, NOT including time to and from child care facilities, or
 - . 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 FIP closure. BEM 233A. Effective April 1, 2007, the following minimum penalties apply:

- . For the first occurrence on the FIP case, close the FIP for 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 3 calendar months.

- . For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. BEM 233A.

The department must determine good cause based on the best information available during the triage and prior to the negative action date. BEM 233A. Good cause may be verified by information already on file with DHS or MWA. BEM 233A.

- . The department will disqualify a FAP group member for noncompliance when:
 - . The client was active 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 not deferred from FAP work requirements (see DEFERRALS in BEM 230B), and the client did not have good cause for the noncompliance. BEM 233B, p. 1.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A.

A client not eligible for RSDI based on disability or blindness must provide evidence of his disability or blindness. BEM 260. The Medical Review Team (MRT) will determine disability/blindness for retro months even if retro MA is not requested by the client at application. BEM 260. If the client subsequently applies for retro MA, refer to the DHS-49-A, Medical/Social Certification, for the disability determination for those retro months. BEM 260. The department shall not refer the client for a medical determination if the case contains a valid MRT/SRT certification. BEM 260. Valid means all of the following:

- SSA's determination that the client is not disabled or blind for SSI purpose is not final as defined in this item.
- The medical review is not due or past due.
- The client continues to be unable to engage in substantial gainful activity.

- The client's condition is the same. BEM 260.

The client is responsible for providing evidence needed to prove disability or blindness. BEM 260. However, the department must assist the customer when they need help to obtain it. BEM 260. Such help includes the following:

- Scheduling medical exam appointments,
- Paying for medical evidence and medical transportation,
See [BAM 815](#) and [BAM 825](#) for details. BEM 260.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and the department should deny the application or close the case. BEM 260. The department is not required to return the medical evidence to MRT for another decision in this instance. BEM 260.

This Administrative Law Judge finds that Claimant failed to attend her June 6, 2011 medical appointment for purposes of MRT review. Claimant admitted that she missed the appointment then stated she does not own a car and had transportation problems. She also testified that she was unable to reschedule the appointment because the staff at the medical clinic did not return her messages. Claimant did not call the department and request assistance. Because Claimant did not submit to the scheduled medical exam, the department properly closed her FIP case per BEM 260. Without the proper medical information, the MRT could not assess her medical condition. Accordingly, this Administrative Law Judge finds that the department acted properly.

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 Family Independence Program (FIP) benefits for failure to attend a scheduled medical appointment for purposes of an MRT review.

Accordingly, the department's actions are AFFIRMED.

IT IS SO ORDERED.

/S/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 9/12/11

Date Mailed: 9/12/11

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 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.

CAP/ds

■ [REDACTED]