

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

IN THE MATTER OF:



Reg. No: 201142919  
Issue No: 1005  
Case No: [REDACTED]  
Hearing Date: September 1, 2011  
Bay County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

**HEARING DECISION**

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on September 1, 2011. The Claimant and Agency appeared by telephone and provided testimony.

**ISSUE**

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

**FINDINGS OF FACT**

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. As of April 29, 2011, the Claimant's daughter was not attending school. On April 29, 2011, the Department sent the Claimant an Appointment Notice. The Notice requested the Claimant's daughter to attend WF on May 9, 2011. (Hearing Summary).
2. Between April 29, 2011 and May 5, 2011, the Claimant asked the Department for a deferral for her daughter. The Claimant indicated the deferral was for medical reasons.
3. On May 5, 2011, the Department sent the Claimant medical forms to be filled out and returned by May 16, 2011.
4. On May 20, 2011, the Department sent the Claimant additional medical forms to be filled out and returned by May 31, 2011.

5. Between May 31, 2011 and June 8, 2011, the Claimant asked the Department for an extension. The Claimant wanted an extension because her daughter had an upcoming medical appointment on June 8, 2011. Around the time of the Claimant's request, the Department granted the Claimant an extension.
6. On June 9, 2011, the Claimant asked the Department for an additional extension. Around this time, the Department sent the Claimant additional medical forms to be filled out and turned in.
7. On June 15, 2011, the Department sent the Claimant a Notice of Noncompliance. The Notice indicated an appointment was to take place on June 21, 2011 to verify good cause for non-compliance.
8. On or around June 15, 2011, the Claimant gave the Department a medical release form. On or around this date, the Department faxed the release to the daughter's doctor requesting her medical files.
9. On June 21, 2011, the Claimant and the Department participated in a triage. The Claimant did not produce any additional medical documentation. The Claimant did provide a note to the Department indicating her daughter was going to attend school in the fall. Based on the discussion during the triage, the Department determined the Claimant did not have good cause for the noncompliance back on May 31, 2011.
10. On June 24, 2011, the Department sent the Claimant a Notice of Case Action. The Notice indicated the Department was going to close the Claimant's FIP benefits beginning August 1, 2011 for noncompliance.
11. On July 7, 2011, the Claimant requested 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).

Department policy indicates:

## **DEPARTMENT PHILOSOPHY**

### **FIP**

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

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. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

## **DEPARTMENT POLICY**

### **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.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. BEM 233A, p. 1.

## **NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES**

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. 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 FOR NONCOMPLIANCE**

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. Document the good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

### **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.

### **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.

Defer persons incapacitated due to injury, physical illness or mental illness. Verify a reason for deferral only if it is not obvious and the information provided is questionable (unclear, inconsistent or incomplete). Sources that may be used to verify questionable information are:

- SSI/RSDI/MA approval or receipt based on disability or blindness. For SSI and RSDI, use one of the sources referenced in FIP policy, Care of Disabled Spouse or Disabled Child in BEM 230A.
- An evaluation signed by a fully licensed psychologist that the client has an IQ of 59 or less.
- Statement from an MD/DO that the person is unable to work. Any medical evidence submitted by a Physician's Assistant must be cosigned by an MD/DO.
- The DHS-54A, Medical Needs; DHS-49, Medical Examination Report; DHS-49-D, Psychiatric/Psychological

## **NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS**

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 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.

## **TRIAGE**

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. Locally coordinate a 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, offer a phone conference at that time. Clients must comply with triage requirement within the negative action period.

Determine good cause 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.

If the FIS, JET case manager, or MRS counselor do not agree as to whether "good cause" exists for a noncompliance, the case must be forwarded to the

immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

**Note:** Clients not participating with JET must be scheduled for a “triage” meeting between the FIS and the client. This does not include applicants. BEM 233A, p. 7.

### **Good Cause Established**

If the client establishes good cause within the negative action period, do NOT impose a penalty. See “Good Cause for Noncompliance” earlier in this item. Send the client back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. Do not enter a new referral on ASSIST. Enter the good cause reason on the DHS-71 and on the FSSP under the “Participation and Compliance” tab.

### **Good Cause NOT Established**

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. BEM 233A, pp. 10-11.

### **When to Disqualify**

- . 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.

### **When to Request a New MRT Decision**

When a Medical Review Team decision has been completed and the client states they have additional medical evidence or a new condition, gather new verification and send for an updated Medical Review Team decision.

The FIS must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency while gathering verification or assisting clients with obtaining medical verification or testing. If testing assistance is necessary; see BEM 232, Medical Exams, Immunizations and Tests for instructions.

When an individual presents a doctor's note after the Medical Review Team decision but does not have new medical evidence or a new condition, send the DHS-518 to the doctor and request supporting medical evidence.

If new medical evidence is not provided, do not send the case back to the Medical Review Team. The previous Medical Review Team decision stands.

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.

In the present case, the Department gave the Claimant ample opportunity to turn in the necessary documentation to excuse the Claimant's daughter from WF/JET. The Claimant had from approximately April 29, 2011 through July 31, 2011 to turn in the necessary documentation.

Although the Claimant turned in a medical release form sometime around June 15, 2011, it was not enough to establish good cause as the medical provider never released the necessary documentation.

Based on the evidence and the testimony before me, I find the Claimant had ample opportunity to submit the necessary documentation. Therefore, I find the Department acted in accordance with the applicable policy in closing the Claimant's FIP benefits when the Claimant did not comply with the Department's request.

Accordingly, I find the Department's actions should be **AFFIRMED**.



**DECISION AND ORDER**

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department properly terminated and sanctioned the Claimant's Family Independence Program (FIP) benefits for noncompliance with WF/JET requirements.

Accordingly, the Department's actions are **AFFIRMED**.

/s/

Corey A. Arendt  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: September 1, 2011

Date Mailed: September 2, 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.

CAA/cr

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