

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

IN THE MATTER OF



Reg. No: 2011-43295

Issue No: 1038



St. Clair 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 July 8, 2011. After due notice, a telephone hearing was held on August 25, 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 16, 2001, Claimant was assigned to the Habitat Re-store to participate in 25 hours of weekly community service. Claimant signed a CSP Onsite Orientation agreeing that failure to complete the requirement of the onsite activities would result in absence hours being given for the month and if the absence hours exceeded 16, her file would be returned for Triage. She also agreed that if she was running late or could not attend the day she was scheduled, it was her responsibility to contact the agency. (Department Exhibits 2, 4).
3. On May 26, 2011, JET was notified by the Habitat Re-store that Claimant had been terminated because she failed to attend or call to inform them she

would not be reporting for work on May 19, 2011 and May 25, 2011. (Department Exhibits 2, 5-6).

4. On May 27, 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 1, 2011, to demonstrate good cause for noncompliance. The notice explained that failure to show good cause could result in loss of benefits. (Department Exhibits 9-10).
5. On June 1, 2011, Claimant and her husband attended Triage. Claimant stated she was in the hospital on May 19, 2011, and believes she had court on May 25, 2011. The department gave Claimant until the following day to provide documentation that she was in the hospital and in court on the missed days. (Department Exhibit 2).
6. On June 2, 2011, Claimant provided the hospital discharge documentation showing she was discharged on May 19, 2011 at 2:06 P.M. Claimant had been scheduled to work from 9 A.M. to 2:00 P.M. Claimant did not call Habitat-Restore to inform them she would not be in and called JET after she was released from the hospital. Regarding the missed May 25, 2011 date, Claimant stated that Habitat wrote May 26, 2011 on her schedule, not May 25, 2011. Habitat provided copies of Claimant's typed schedule to JET, which showed Claimant was scheduled to work on May 25, 2011. Habitat does not provide written work schedules. The department found no good cause. (Department Exhibit 2).
7. The department mailed Claimant a Notice of Case Action on June 14, 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 third noncompliance, her group would not receive benefits from July 1, 2011 through June 30, 2012. (Department Exhibits 11-12).
8. During the hearing, Claimant's husband submitted documentation he claimed showed Claimant was unable to work. The first document is dated May 25, 2010, which is from Claimant's doctor stating "patient unable to return to work at this time. Follow up appointment on 6-8-2010." The second document dated June 8, 2010 states Claimant "was seen today, 6-8-10, in my office. She is to lift no more than 10 lbs and no squatting or kneeling. Any questions, please call my office at [REDACTED]" The third document, dated August 25, 2011, the date of this hearing, stated Claimant "is a patient of mine and since 3/31/2010 has been under the following restrictions: No bending, No squatting, No working at shoulder level or above, no lifting more than 10 pounds." (Department Exhibits 15-17).

9. Claimant submitted a hearing request on June 8, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
10. This is Claimant's third non-compliance with the FIP program. (Department Exhibits 11-12).

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 assigned JET work activity at the Habitat-restore on May 19, 2011 and May 25, 2011. A Triage was scheduled on June 1, 2011. Claimant and her husband attended the Triage and told the department that Claimant was in the hospital on May 19, 2011, and Claimant may have been in court on May 25, 2011. On June 2, 2011, Claimant provided documentation that she had been in the emergency room on May 19, 2011, however she did not notify her work site. The documentation provided by Claimant for her court appearance was for May 23, 2011, not May 25, 2011. The department found that Claimant was noncompliant for failing to show good cause for not completing her required job search hours.

Claimant's husband initially testified that he and his wife were both medically deferred with life time disabilities which the department failed to recognize. Claimant's husband stated that Claimant is not supposed to be doing anything. Claimant's husband later stated that Claimant has a 10 pound weight restriction and she is unable to work at the Salvation Army carrying bags of clothes or at Habitat for Humanity carrying construction materials with that weight restriction.

The documents Claimant's husband submitted were reviewed by this Administrative Law Judge. None of the documents state Claimant has a life time disability. Further, the two documents from May and June of 2010 are irrelevant to the determination of whether Claimant can show good cause for why she did not report to or call her work site on May 19, 2011 and May 25, 2011. The last document provided by Claimant's husband dated August 25, 2011, states Claimant has been on restrictions since March 31, 2010.

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 19, 2011 and May 25, 2011. Whether Claimant was on weight restrictions during the time she was assigned to Habitat is not relevant as to why she failed to report or notify Habitat that she would be absent on May 19, 2011 and May 25, 2011. As a result, 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 12-month sanction is AFFIRMED.

It is SO ORDERED.

