

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

IN THE MATTER OF:

[REDACTED]
Jackson, MI 49203

Reg. No: 2011-43966

Issue No: 1038

[REDACTED]
Jackson 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 received on February 15, 2011. After due notice, a telephone hearing was held on August 18, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly terminated and sanctioned the 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 FIP recipient and a mandatory WF/JET participant during the relevant time period in question.¹ (Hearing Summary).
2. On October 21, 2010, the department mailed Claimant a Jobs, Education and Training Appointment (JET) Notice (DHS-4785) form scheduling an appointment to attend JET orientation on November 1, 2010. (Department Exhibit 1).

¹ Following June 9, 2010 Claimant had been referred back to JET after a Medical Review Team (MRT) determination that Claimant could work with limitations. However, the department did not produce any documentation regarding her MRT assessment.

3. On November 1, 2010, Claimant appeared to JET orientation and was instructed to return to JET every Monday. For some reason, the department's computer system known as "Bridges" reflected that Claimant had not been formally referred to JET at this time.
4. On November 8, 2010, Claimant appeared to the JET office and was handed a Letter of Assignment from South Central Michigan Works! which indicated that she was to return the following Monday (November 15, 2010) at 8:00 a.m. and the letter further indicates, "Return Date: Next Monday: 8:00 A.M. You may contact Rusty Higgins @ . . . prior to return date to see if new referral has been generated." (phone number omitted). (Department Exhibit 5).
5. Relying upon her interpretation of the Letter of Assignment and belief that she had to wait until her caseworker would call her before she was required to attend, Claimant decided not to appear to JET on Monday, November 15, 2010. (Department Exhibit 5).
6. On December 2, 2010, the department mailed Claimant a Notice of Noncompliance (DHS-2444) because she failed to participate as required in employment and/or self-sufficiency related activities. (Department Exhibit 2). In the DHS-2444, the department informed Claimant that she failed to appear for a scheduled appointment on December 14, 2010. The DHS-2444 notice explained that failure to show good cause could result in loss of FIP benefits for 3 (three) months as it was her second noncompliance. (Department Exhibit 2).
7. On December 14, 2010, Claimant attended the Triage via the telephone. Claimant stated that she did not attend JET because she had not been formally referred to the JET program at the time.
8. On December 14, 2010, there was an email from Michelle Jacobs and Connie Adams indicates Claimant appeared to JET. The email also contains a note from [REDACTED] that provides the following: "(Good Cause), gave 54, wait for return. Was not referred when attended. Sent home case went from [REDACTED]." (Department Exhibit 9).
9. On January 25, 2011, the department mailed Claimant a Notice of Noncompliance (DHS-2444) because she failed to participate as required in employment and/or self-sufficiency related activities. The department informed Claimant that she failed to appear for a scheduled appointment on November 15, 2010. The notice explained that failure to show good cause could result in loss of benefits. (Notice of Case Action).
10. The department mailed Claimant a Notice of Case Action (DHS-1605) on January 25, 2011, informing Claimant that her FIP program was being

closed as of March 1, 2011, because she failed to participate in employment and/or self-sufficiency related activities. (Notice of Case Action).

11. Claimant submitted a hearing request on February 15, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
12. This is Claimant's second non-compliance with the FIP program. (Department Exhibit 3).

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. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

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. 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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 Energy,

Labor and Economic Growth (DELEG) 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. BEM 233A. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines. BEM 233A.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. BEM 233A. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. BEM 233A. Clients must comply with triage requirement within the negative action period. BEM 233A.

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.

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.

CAP/ds

■ [REDACTED]