

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: 2011-44066
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 March 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 an active participant in the WF/JET program during the relevant time period in question. (Hearing Summary).
2. On January 31, 2011, Claimant attended orientation for a WF/JET program entitled, "Work Experience Program" (WEP) and received her letter of assignment. (Department Exhibit 1). At the time, Claimant's WEP requirements were to attend 20 hours per week of job-related activities including job search. (Department Exhibit 1).
3. Claimant was scheduled to meet with her WEP worker for a one-on-one meeting the following day on February 1, 2011. (Department Exhibit 1).

4. Claimant failed to appear for her one-on-one appointment with her WEP worker on February 1, 2011. (Department Exhibit 1).
5. On February 7, 2011, Claimant failed to submit her job search log from the first week of February. (Department Exhibit 1).
6. On February 15, 2011, Claimant failed to hand in job search logs from the second week of February. (Department Exhibit 1).
7. The Department mailed Claimant a Notice of Noncompliance (DHS-2444) on February 15, 2011. (Department Exhibit 2). The DHS-2444 indicated that Claimant must show good cause for her noncompliance by February 25, 2011 and her Triage was scheduled for March 1, 2011. (Department Exhibit 2).
8. Claimant attended the Triage which took place on March 1, 2011. At Triage, Claimant indicated that she had good cause for her noncompliance because her son had been diagnosed with a lung condition and that she was unable to attend WEP due to his medical visits. Claimant did not attempt to contact DHS or the JET office at the time. Claimant did not bring any documentation with her to the Triage. (Department Exhibit 1).
9. Following the Triage, the Department conducted an investigation to determine whether Claimant had good cause.
10. The Department contacted several health care providers who rendered care to Claimant's son.
11. The Department learned that Claimant had last taken her son to see [REDACTED] on January 31, 2011.
12. The Department discovered that Claimant had taken her son to the Emergency Room on February 11, 2011.
13. The Department faxed a Medical Needs (DHS-54-E) form to [REDACTED], who treated Claimant's son and spoke to a nurse over the telephone. [REDACTED] office indicated that Claimant had no current limitations and did not need a work deferral due to her son's condition. (Department Exhibits 5 & 6). Claimant's son was next scheduled to visit Dr. Arteta in June, 2011. (Hearing Summary).
14. On March 8, 2011, the Department mailed Claimant A Notice of Case Action (DHS-1605) that closed Claimant's FIP benefits effective July 1, 2011 due to noncompliance with JET program. (Department Exhibit 7).

15. Claimant submitted a hearing request on March 15, 2011 protesting the closure of her FIP benefits. (Request for a Hearing).

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.
- . 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 JET/Work First program as a condition of receiving her FIP benefits. There is no dispute, and Claimant does not challenge, that she failed to attend a one-on-one appointment with her WEP worker on February 1, 2011. There is also no dispute that on February 7 and 15, 2011, Claimant failed to submit her job search logs. Claimant, however, contends that she had good cause for her failure to comply with the above requirements. During the hearing, Claimant testified that her son was ill and that the stress of managing his condition prevented her from fulfilling her requirements. This Administrative Law Judge does believe that Claimant's son did, and/or does suffer from medical problems that require Claimant's attention. However, this Administrative Law Judge also believes that Claimant does not have good cause for her noncompliance.

First, Claimant did not produce any documentation to support her good cause assertion during the Triage. Claimant, at the hearing in this matter, for the first time submitted a medical prescription note from the office of one of her son's treating physicians, however. The June 10, 2011 note, which appeared to have been signed by a nurse from Dr. Jennings office, indicated that Claimant must stay home with her son for 6 months. Not only is this note not persuasive, it is too late. The note was not made contemporaneously, but was produced well beyond the deadline for Claimant to show good cause. In fact, the note was created almost three months after the March 8, 2011 Notice of Case Action in this matter. Claimant failed to make any telephone calls to the WEP/JET workers to explain her situation or even to request assistance. Claimant has not shown that she had a valid reason for noncompliance with employment and/or self-sufficiency-related activities that were based on factors beyond her control. Moreover, policy requires that a claim of good cause be verified and documented. Claimant has failed to do so here.

Consequently, the Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for failing to attend mandatory appointments and for her failure to complete required job search activities. 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 3-month sanction is AFFIRMED.

It is SO ORDERED.

/s/

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

Date Signed: 8/31/11

Date Mailed: 8/31/11

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.

CAP/ds

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