

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

IN THE MATTER OF:



Washtenaw 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. After due notice, a telephone hearing was held on October 20, 2011. Claimant appeared and provided testimony and was represented by non-attorney [REDACTED].

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 and properly reduce her Food Assistance Program (FAP) benefits because of her FIP sanction?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. At the time relevant to this matter, Claimant was a recipient of FIP benefits and a mandatory WF/JET participant.
2. On July 7, 2011, the department received a denial of Claimant's request for a medical deferral from the Medical Review Team. (Department Exhibits 15-16).
3. On July 8, 2011, the department mailed Claimant a Jobs, Education and Training Appointment Notice, informing her that she had to attend WF/JET on August 1, 2011 at 9:00 A.M. (Department Exhibit 12).
4. On August 24, 2011, the department mailed Claimant a Notice of Noncompliance (DHS 2444), for her failure to participate as required in

employment and/or self-sufficiency related activities. The Notice indicated that this was the third time that a member of Claimant's FIP group was non-compliant and scheduled a Triage appointment for Claimant for August 31, 2011, at 10:00 A.M. (Department Exhibits 7-8).

5. On August 31, 2011, Claimant attended the Triage and stated that she did not JET because she has panic attacks. The department found no good cause because Claimant was denied a medical deferment by MRT. (Department Exhibit 7).
6. On September 7, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605), indicating that her FIP case would be closed and sanctioned from October 1, 2011 through December 31, 2011, due to Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause. The notice also informed Claimant that as a result of her FIP sanction, her FAP was being decreased to [REDACTED] a month. (Department Exhibits 3-6).
7. On September 12, 2011, Claimant submitted a hearing request protesting the closure of her FIP case and reduction in FAP benefits.

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, Mich Admin Code, Rules 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 Mich Admin Code, Rules 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 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. 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.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations when a Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause, or a Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause. At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B.

The department disqualifies a FAP group member for noncompliance when all the following exist:

- The client was active both FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply with FIP/RAP employment requirements, and
- The client is subject to a penalty on the FIP/RAP program, 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.

In this case, Claimant was required to participate in the JET/Work First program as a condition of receiving her FIP benefits. Claimant applied for a medical deferment from JET. On July 7, 2011, the department received a denial of Claimant's request for medical deferment from the Medical Review Team. As a result, the department mailed Claimant a JET appointment notice instructing her to attend Michigan Works on August 1, 2011 at 9:00 A.M. Claimant failed to attend and a Notice of Noncompliance was mailed to Claimant scheduling her for a Triage on August 31, 2011 at 10:00 A.M. to demonstrate good cause.

On August 31, 2011, Claimant attended the Triage and stated that she did not attend JET because of her panic attacks. Claimant submitted a letter from a psychiatrist at Catholic Social Services that recommended Claimant be excused from JET for an additional two months to see if there would be improvement in terms of Claimant's anxiety and ability to function around others. The department found that Claimant was noncompliant for having failed to participate as required in employment and/or self-sufficiency related activities on August 1, 2011, without good cause.

Therefore, this 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 participate with JET on August 1, 2011. As a result, the department properly closed Claimant's FIP case for non-compliance. Because Claimant was an active participant in the FAP program at the time of her FIP non-compliance, Claimant's FAP benefits were also properly reduced because she was removed from the FAP group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly reduced Claimant's FAP benefits when the department properly closed Claimant's FIP case for noncompliance with WF/JET requirements and the 3-month FIP sanction and reduction in FAP benefits is AFFIRMED.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/27/11

Date Mailed: 10/27/11

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.

VLA/ds

