# STATE OF MICHIGAN STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-578 Issue No: 1012

Case No: Load No:

Hearing Date: November 3, 2010 Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

# **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 notic e, a telephone hearing was held on November 3, 2010.

## **ISSUE**

Did the Department of Hum an Service (the department) properly propose to cancel claimant's Family Independence Agency (F IP) benefits based upon its determination that claimant did not attend mandatory Work First Activities?

### 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 receiv ing Family Independence Agency benefits for herself and child.
- (2) On August 31, 2010, the department case worker determined that claimant was rude and unprofessional to the work first caseworker.
- (3) The claim ant gave the department a nonworking phone num ber and did not report the change and the depar tment caseworker was unable t o get in contact with her. (Department Exhibit #3)

- (4) On September 7, 2010, claimant did not meet her required hours according to JET guidelines and filed out her logs on a regular sh eet of paper and not on a job log.
- (5) On September 15, 2010, the department determined that claimant broke the code of conduct and only did 6 hours of job search.
- (6) The department caseworker conducted a triage and determined that claimant did not have good cause for failure to comply with Work First.
- (7) On September 22, 2010, claimant fil ed a request for a hearing to cont est the negative action.
- (8) Claimant did conc ede on the rec ord that she missed t urning in one check s tub and that she did not know how to fill out the job search sheet correctly.

## CONCLUSIONS OF LAW

The Family Independence Progr am (FIP) was establis hed pursuant to the Personal Responsibility and W ork Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department of Human Serv ices (DHS or department) administers the FIP progr am pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Ai d to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility M anual (PEM) and the Program Reference Manual (PRM).

The department of Human Services requires c lients to participate in employment and self sufficiency related activities and to accept employ ment when offered. The focus is to assist clients in removing bar riers so they can participate in those activities which lead to self sufficiency. However, there are consequences for a client who refuses to participate without good cause. Non-compliance may be an indicator of possible disabilities and the department is considered further exploration of any barriers. BEM, Item 233A. As a compliance of eligibility clients must work or engage in employment and/or self sufficiency related activities. Non-compliance of applicants, recipients and member adds, means doing any of the following without good cause:

- Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification and client s can reply at any time.
- Failing to or refusing to appear or participate with the Jobs Education and Training progra m, or other employment service providers

- Complete a family automat ed screening tool (FAST) as assigned in the first step in the FSSP process.
- Develop a family self sufficiency plan
- Comply with activities assigned in the FSSP.
- Provide legitimate documentation of work participation
- Appear for a scheduled appoint ment or meeting rela ted to assigned activities
- Failure to participate in empl oyment or a self sufficienc y related activities
- Accept a job referral
- Complete a job application
- Appear for a job interview
- Stating orally or in writing to a definite intent not to comply with the program requirements
- Threatening, physically abus ing, or otherwise behaving destructively to anyone con ducting or participating in an employment and/or self sufficiency related activity
- Refusing employment support services as a refusal prevents participation in employment and/ or self sufficiency related activities (BEM, Item 233A, p.2)

This administrative law judge finds that the evidence cont ained in the file does not support claimant's allegations.

Good cause is a v alid reas on for non-co mpliance with employment and/or self sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. A cl aimant with good cause must be verified for member adds and recipients. Good cause includes the following:

- The person is working at I east 40 hours a week on average and earning at least state minimum wage.
- if the claimant is physically or mentally unfit for the job or activity, or

- if the claimant has a debilitating illness or injury, or
- an immediate families illness or injury requiring in-home care by the claimant, or
- the department or employer has failed to make reasonable accommodations for the claim ant's dis ability, while the claimant has no child care.
- If the claim ant requested trans portation services from DHS, the Michigan Works or other em ployment services provider prior to case closure and r easonably priced transportation was not available to the claimant.
- The employment involves illegal activities, or
- The claimant experiences discrimination.
- There is some unplanned event or factor such as:
  - o domestic violence
  - health or safety risks
  - homelessness
  - jail hospitalization or
  - o religion
- or the claimant quits to assume the employment comparable on salary and hours
- there is a total commuting time which exceeds 2 or 3 hours per day, including time to and from child car e facilities. (BEM, Item 233A, pp. 4-5)

The penalty for non-compliance without good cause is FIP closure effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close FIP for not less than 3 calendar m onths, unless the claimant is excused from non-compliance.
- For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months

 For the third and s ubsequent occurrence on the FIP case, clos e the FIP for not less than 12 calendar months.

The penalty counter also begins April 1, 2007, regardless of the previous number of non-compliance penalties. Be gin a sanction perior d with the fir st pay period of the month. Penalties are automatically calculated by the entry of non-complian ce without good caus e in BRIDGES. This applies to active FIP cases including those with a member add who is a WEI JET participant. BEM, Item 233A, p. 6. JET Participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discus s non-compliance and good cause. A triage meeting is to be locally coordinated to notify the MWA case manager of triage meetings including attend the meeti ng or parti cipate in a scheduling guidelines. Claimant's can either 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. Claimant's must comply wit h triage requirements within the negative action period. BEM, Item 233A, p. 7. The department is to determine good cause based on the best available information during the triage and pr ior to the negative action date. Good cause may be verified by information already in the file with DHS or MWA. Good cause must be considered even if the claimant does not attend with particular attention to possible disabilities, including disabilities that have not been diagnosed or identified by the claimant an unmet needs or accommodat ion. BEM, Item 233A, p. 7. The department is to follow the following procedure for processing the FIP closure:

- Send a DHS-2444 notice of employment and/or self sufficiency related non-compliance within 3 days after learning of the non-compliance.
- Included in the DHS- 2444 is the date of non-compliance, the reason the client was deter mined to be non-compliant, the penalty that would be imposed, and schedule a triage to be held within the negative action period. BEM, Item 233A, pp. 7-8.

The depart ment is to determine good cause during t riage and prior to the negative action effective date. Good cause must be verified and can be based on information already in the file with the DHS or the JET program. The department is to document the good cause determination on the sanction detail screen. If the client does not provide good cause for reason for non-compliance determining good cause based on the best information available.

This Administrative Law Judge finds t hat the department has established by the necessary competent, material and substantia levidence on the record that claimant was non-compliant with Work First activities.

## **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusion sof law, decides that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Family Independence program benefits under the circumstances. This Administrative Law Judge finds that claimant did not provide good cause for the failure.

Accordingly, the department's decision is AFFIRMED.

Landis

Y. Lain

Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 3, 2011

Date Mailed: January 3, 2010

**NOTICE**: Administrative Hearings may or der 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 Hear ings will not orde rarehearing 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 ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

### LYL/alc

