

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20111176

Issue No: 1038

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on February 3, 2011. The Claimant was present and testified.

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program?

FINDINGS OF FACT

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

1. The Claimant received FIP benefits.
2. The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits.
3. The Department conducted a triage meeting on November 30, 2010.
4. The Department sent a DHS 2444 Notice of Non-Compliance to the Claimant on November 19, 2010. (Department Exhibit 2)
5. The Department notified the Claimant that it would terminate her FIP benefits for non-compliance.

6. The Department received the Claimant's request for a hearing on December 7, 2010, protesting the termination of her FIP 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, MAC R 400.901 - .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) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. 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:

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 DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be 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 Labor and Economic Growth (DLEG) 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.

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.

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.

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.

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, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE BEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233b, p. 1 The FAP group member should be disqualified 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, and
- The client did not have good cause for the noncompliance.

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

In this case, the Claimant was referred to the JET / Work First Program. As part of the JET program, the Claimant was required to complete 30 hours of work / job search / training each week. The Claimant was required to submit proof of the hours to the program. The Claimant had a triage on October 14, 2010 for non-compliance for failure to complete hours and provide proof to the program. At that Triage, the Claimant indicated that she was having difficulty for a number of reasons including abusive boyfriend, illness and transportation. On October 22, 2010, the Claimant was reenrolled in the JET program. She was required to complete 30 hours a week of Job search activities. For the week of October 18, 2010, the Claimant only completed 17 hours. For the week of October 24, 2010, she completed 26 hours. The Claimant provided documentation of 18 of the required 30 hours for the week of October 31, 2010. On November 9, 2010, the Claimant was told that if she failed to complete the required hours for that week she would be sent to Triage for non-compliance. She was required to bring documentation of the hours on November 17, 2010. The Claimant has yet to provide any documentation for that time period. She was referred to Triage on November 30, 2010. The Claimant failed to report or call for the Triage on November 30. At the Triage the Department determined that the Claimant did not have good cause for her non-compliance with the JET program. At the hearing, the Claimant stated that she was unable to attend the Triage because she had gone to Detroit to avoid her ex-boyfriend. She stated that her ex-boyfriend was violent and recently released from prison. The Claimant failed to comply with the JET program requirements for three weeks prior to the Triage. Although she stated that she had problems with her ex-boyfriend during the Triage in early October for previous non-compliance, she never indicated to the Department that this was a continuing problem and why she was unable to comply with the program during the month of October. The only issue she reported during this time period was illness. She did not contact that Department prior to leaving Monroe County and going to Detroit. She failed to contact the Department at the time of the second triage. The Claimant failed to comply with the JET program. As a result of her non-compliance she was terminated from the program. This resulted in her FIP case being closed and sanctioned.

