

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

IN THE MATTER OF: Reg.



No: 2011-12674
Issue No: 1038
Case No: [REDACTED]
Hearing Date:
March 3, 2011
Delta County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 March 3, 2011. The claimant, [REDACTED] appeared and provided testimony.

ISSUE

Did the department properly terminate and sanction 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 mandatory WF/JET participant.
2. On December 2, 2010, 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 Claimant's second noncompliance, which could result in the closure of her FIP case for three months and Claimant's disqualification from the Family Assistance Program (FAP) for six months, unless Claimant verified good cause for the noncompliance. The Notice scheduled a triage appointment for December 9, 2010, at 9:00 a.m. (Department Exhibits 10-12).

3. Claimant did not attend the December 9, 2010, triage appointment. (Department Exhibit 1).
4. On December 9, 2010, the department mailed Claimant a Notice of Case Action (DHS 1605) advising her that her FIP case would be closed and sanctioned for a three-month period for her failure to participate as required in employment and/or self-sufficiency related activities. (Department Exhibits 13-14).
5. Claimant submitted a hearing request on December 25, 2010, protesting the closure of her FIP case.

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 or her claim for assistance has been 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 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 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 (RTM), 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 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. 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. The Notice 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 provided it is 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.

- . 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 FIP benefits. On December 2, 2010, the department found that Claimant was noncompliant for failing to participate as required in employment and/or self-sufficiency related activities – specifically, for failing to submit weekly activity logs for the weeks of November 7, 14, and 21, 2010. At the hearing, Claimant admitted that she did not timely submit her weekly activity logs during this three-week period and she did not make any effort to contact JET/Work First to explain her untimeliness.

Claimant further testified that she moved on [REDACTED] and therefore did not receive the December 2, 2010, Notice of Noncompliance that was mailed to her at [REDACTED] [REDACTED] notifying Claimant of her triage appointment on December 9, 2010. However, Claimant acknowledged that she never notified the department of her change of address despite being aware that it was her responsibility to do so, and despite having had at least three opportunities to do so when Claimant visited the Delta County DHS office on October 6, 2010, October 20, 2010, and November 1, 2010. Moreover, the department representative indicated that the December 2, 2010, Notice of Noncompliance was not returned undelivered to the Delta County DHS office. Finally, Claimant acknowledged having received the December 9, 2010, Notice of Case Action mailed to her at [REDACTED] [REDACTED], [REDACTED] – indeed, Claimant requested a hearing as a result of that Notice.

Claimant failed to provide credible evidence that she did not receive the December 2, 2010, Notice of Noncompliance informing her of her triage date on December 9, 2010. The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant failed to show good cause for her failure to timely submit weekly activity logs for the weeks of November 7, 14, and 21, 2010, or for her failure to appear for her triage appointment. Therefore, 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 non-compliance with WF/JET requirements and the three-month sanction is AFFIRMED.

It is SO ORDERED.

____/s/____

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 16, 2011

Date Mailed: March 16, 2011

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.

SDS/alc

■ [REDACTED]