

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No: 201113841
Issue No: 1038
Case No: ██████████

Hearing Date:
March 1, 2011
Alpena County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on January 14, 2011. After due notice, a telephone hearing was held on Tuesday, March 1, 2011.

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 applied for FIP benefits on September 23, 2010.
2. The Department referred the Claimant and ██████████. (a work eligible member of the Claimant's FIP group) to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits on September 23, 2010, and they were both assigned to a JET orientation on October 5, 2010.
3. The Claimant and ██████████. were given notice of the requirements of the JET program on September 23, 2010.
4. The Claimant and ██████████. were noncompliant with the JET program when they failed to attend a JET assignment on October 25, 2010.

5. The Department conducted a triage meeting on November 4, 2010.
6. On November 4, 2010, the Department notified the Claimant that it would sanction her FIP benefits as of December 1, 2010.
7. The Department received the Claimant's request for a hearing on January 14, 2011, protesting the termination of her FIP benefits.

CONCLUSIONS OF LAW

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 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. PEM 229, p. 1.

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. PEM 230A, p. 1.

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. PEM 233A, pp. 1-2.

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. PEM 233A, p. 9

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. PEM 233A, p. 4, 5

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. PEM 233A, p. 9

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. PEM, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP (SEE PEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. PEM 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. PEM 233B, p.2

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.

The Claimant applied for Family Independence Program (FIP) benefits on September 23, 2010, and the Department referred her and [REDACTED] (a work eligible member of the Claimant's FIP group) to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits. The Claimant and [REDACTED] were given notice of the requirements of the JET program on September 23, 2010, and they were both assigned to a JET orientation on October 5, 2010.

The Claimant and [REDACTED] were noncompliant with the JET program when they failed to attend a JET assignment on October 25, 2010. The Department conducted a triage meeting on November 4, 2010, where the Claimant and [REDACTED] were given the opportunity to establish good cause for their noncompliance. Neither the Claimant nor [REDACTED] attended this meeting, and they did not attempt to have it rescheduled. The Department did not find good cause for the noncompliance with the JET program, and on November 4, 2010, notified the Claimant that her FIP benefits would be sanctioned as of December 1, 2010.

The Claimant argued that she and [REDACTED] would have been able to establish good cause for their noncompliance with the JET program if they had received notice of the triage meeting. The Claimant testified that she and [REDACTED] were prevented from completing their JET assignment due to transportation issues.

The Claimant was given the opportunity to establish good cause at a triage meeting scheduled for November 4, 2010. This was the Claimant's opportunity to present evidence explaining how they were prevented from complying with their JET assignment on October 5, 2010. Since the Claimant failed to attend this meeting, she had waived her right to establish good cause for her noncompliance.

The Claimant argued that she did not receive timely notice of the triage meeting because the Department sent it to her former address. The Claimant did not dispute that her change of address had not been reported to the Department within 10 days. The Claimant testified that she eventually received the notice, but not until after the triage meeting had taken place.

The Department's representative testified that notice of the triage meeting was sent to the Claimant and [REDACTED] at the most recent address in their benefits file. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. [REDACTED]

[REDACTED] In this case, the Claimant failed to rebut the presumption of receipt.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. BAM 105. Income reporting requirements are limited to the following:

Earned income:

- Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- Change in work hours of more than five hours per week that is expected to continue for more than one month.

Unearned income:

- Starting or stopping a source of unearned income.
- Change in gross monthly income of more than \$50 since the last reported change.

Other changes:

- Persons in the home.
- Marital status.
- Address and shelter cost changes that result from the move.
- Vehicles.
- Assets.
- Child support expenses paid.
- Health or hospital coverage and premiums.
- Day care needs or providers. BAM 105

The Claimant had a duty to report her change of address to the Department within 10 days. This Administrative Law Judge finds that it was this failure to report that prevented the Claimant from receiving timely notice of the triage meeting.

The Department's determination that the Claimant and [REDACTED] did not have good cause for their noncompliance with the JET program was reasonable, and was based on the best information available during the triage meeting. The Department has established that it properly sanctioned the Claimant's FIP benefits for noncompliance with the JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program.

The Department's FIP sanction is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 14, 2011

Date Mailed: March 15, 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 60 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.

KS/tg

cc: [REDACTED]