

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: 201115981

Issue No: [REDACTED]

Case No: [REDACTED]

Hearing Date:

April 6, 2011

Kent 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 received on October 20, 2009. After due notice, a telephone hearing was held on April 6, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Family Independence Program (FIP) benefits?

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. (Hearing Summary).
2. On July 31, 2009, Claimant informed JET that he was having trouble job searching due to medical issues. JET suggested that Claimant speak with his doctor regarding a possible medical hold and instructed Claimant that he must have a note excusing him for specific dates signed by the doctor. (Department Exhibit 4).
3. Claimant's JET caseworker called Claimant on August 6, 2009, because he had missed his JET classes and had not brought in a medical excuse. Claimant stated that he was sick and would bring the documentation in the following day. (Department Exhibit 4).

4. On August 7, 2009, Claimant brought in medical documentation excusing him from his JET classes on August 4 and August 6, 2009. The documentation stated that Claimant was unable to participate at this time, but did not have an end date. The JET worker explained that Claimant needed to provide medical documentation with an end date by August 14, 2009, or he would no longer be in the program. (Department Exhibit 3).
5. Claimant's JET worker received a fax from Claimant's doctor stating that Claimant was currently unable to work. Because there was no end date, the JET worker was unable to use it as a medical hold and called Claimant and advised him that he needed to explain to the doctor that he needed to provide documentation with a beginning and end date. (Department Exhibit 3).
6. Triage was scheduled for Claimant on September 15, 2009, because Claimant had not attended JET since August 7, 2009, and Claimant failed to submit medical documentation excusing him. (Department Exhibits 2-3).
7. On September 15, 2009, Claimant attended Triage and provided medical documentation. The department found the documentation submitted by Claimant was insufficient to excuse him from missing the JET activities and informed him that he would receive no good cause if he did not provide proper medical documentation by September 21, 2009. (Department Exhibit 2).
8. Claimant reported to the department on September 22, 2009, that his doctor was unable to give him the documentation without an appointment and that he would not be able to see the doctor until September 28, 2009. Claimant was informed that he was receiving no good cause for failure to provide the required documentation. (Department Exhibit 2).
9. The department mailed Claimant a Notice of Case Action on September 22, 2009, informing Claimant that his FIP program was being closed as of November 1, 2010, because he failed to participate in employment and/or self-sufficiency related activities. (Department Exhibits 5-9).
10. Claimant submitted a hearing request on October 20, 2009, protesting the closure of his FIP benefits. (Request for a Hearing).
11. This is Claimant's third non-compliance with the FIP program. (Department Exhibit 6).

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 claim for assistance is 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. 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 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 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 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. 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 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.

In this case, Claimant was required to participate in the JET/Work First program as a condition of receiving his FIP benefits. Claimant stopped attending JET classes beginning August 7, 2009, claiming he had a medical excuse. A Triage was scheduled on September 15, 2009. Claimant attended the Triage and provided medical documentation which was insufficient to excuse Claimant from attending the missed JET classes. Claimant was given until September 21, 2009 to provide the proper medical documentation excusing him from his JET classes. On September 22, 2009,

the department found that Claimant was noncompliant for not attending his JET classes and for failing to submit medical documentation excusing him from attending.

Claimant testified that he was experiencing back problems and that when he went back to his doctor to ask for a medical excuse with a beginning and end date, his doctor refused to give it to him because he had already given Claimant a medical excuse. Claimant also stated that he did not understand why the department wanted him to go job hunting while he was applying for SSI benefits.

The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for missing his JET classes. As a result, 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 noncompliance with WF/JET requirements and the 12-month sanction is AFFIRMED.

It is SO ORDERED.

/s/

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

Date Signed: April 13, 2011

Date Mailed: April 13, 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.

VLA 

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