

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

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 [REDACTED]. After due notice, a telephone hearing was held on [REDACTED].

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 until [REDACTED].
2. The Department referred FIP group member [REDACTED] to the [REDACTED] program as a condition of receiving FIP benefits.
3. Group member [REDACTED] was noncompliant with the [REDACTED] program when he failed to complete his [REDACTED] assignments for the week of [REDACTED].
4. The Department conducted a triage meeting on [REDACTED].
5. On [REDACTED], the Department notified the Claimant that it would sanction her FIP benefits as of [REDACTED].

6. The Department received the Claimant's request for a hearing on [REDACTED], 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. [REDACTED] program requirements, education and training opportunities, and assessments will be covered by the [REDACTED] case manager when a mandatory [REDACTED] participant is referred at application. PEM 229, p. 1.

Federal and State laws require each work eligible individual [REDACTED] group to participate in the [REDACTED] 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. [REDACTED] is a program administered by the [REDACTED] 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 [REDACTED] 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 [REDACTED] 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

- o 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 was an ongoing FIP recipient, and the Department referred group member [REDACTED] as a condition of receiving FIP benefits. The Department had deferred the Claimant from participation in the [REDACTED] program. Group member [REDACTED] was noncompliant with the JET program when he failed to complete his [REDACTED] assignments for the week of [REDACTED]. The Department conducted a triage meeting on [REDACTED], where the Claimant was given the opportunity to establish good cause. The Department did not find good cause, and on November 6, [REDACTED]

The Claimant argued that neither she nor group member [REDACTED] understood the requirements of the [REDACTED], and did not know what was expected of group member [REDACTED].

Group member [REDACTED] received an orientation to the [REDACTED] program on [REDACTED]. Group member [REDACTED] failed to attend [REDACTED] activities after that date, but reported on [REDACTED] that he had started full time employment.

Good cause for noncompliance with the [REDACTED] can be established for full time employment where the person is working at least 40 hours per week on average and earning at least state minimum wage. BEM 233A.

In this case, the group member [REDACTED] submitted verification of 16 hours of employment, which is insufficient to establish good cause for his noncompliance with the [REDACTED] program for full time employment.

The Claimant testified that group member [REDACTED] is no longer a member of her household.

If the noncompliant member leaves the home prior to issuing a DHS-2444, Notice of Noncompliance, the Department will not act on the closure. If the noncompliant member joins a new group in this instance, the penalty would apply to the new group. If the noncompliant member leaves the home after a DHS-2444, Notice of Noncompliance is sent or the FIP closure has taken effect, the Department will continue to impose the sanction for the remainder of the sanction period on the original FIP group. BEM 233A.

The Claimant failed to establish that group member [REDACTED] left her household before the Department issued the DHS-2444, Notice of Noncompliance on [REDACTED].

Based on the evidence and testimony available during the hearing, the Department's determination that the Claimant did not have good cause for her noncompliance with the [REDACTED] program is reasonable. The Department has established that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with the [REDACTED] 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/_____
[REDACTED]

Date Signed: _____

Date Mailed: _____

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.

[REDACTED]