

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

IN THE MATTER OF:

██████████  
██████████  
██████████

Reg. No: 2011-2350  
Issue No: 1038  
Case No: ██████████  
Load No: ██████████  
Hearing Date:  
December 7, 2010  
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

**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 hearing was held on December 7, 2010. Claimant and her partner, ██████████, appeared and testified.

**ISSUE**

Did the Department of Human Services properly deny Claimant's Family Independence Program (FIP) application for failure to participate in employment and/or self-sufficiency related activities?

**FINDINGS OF FACT**

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

- (1) On July 29, 2010 Claimant submitted an application for Family Independence Program (FIP) benefits. Claimant was temporarily deferred from participation in the Michigan Works Agency/Jobs Education and Training Program (JET) due to pregnancy with a September 9, 2010 due date.
- (2) On September 9, 2010 Claimant gave birth to her child.
- (3) On September 14, 2010 ██████████, father of Claimant's child, moved into the household. Claimant reported the change of household. A Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) was issued for ██████████ to attend on September 20, 2010.

- (4) On September 20, 2010 [REDACTED] did not attend JET. Claimant's application was denied and notice was sent to her.
- (5) On September 27, 2010 [REDACTED] attended orientation at JET.
- (6) On October 4, 2010 Claimant submitted a request for hearing.

### **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 (formerly known as the Family Independence Agency) 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) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

#### **BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR SELFSUFFICIENCY- RELATED REQUIREMENTS: FIP**

#### **DEPARTMENT PHILOSOPHY**

#### **FIP**

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

## DEPARTMENT POLICY

### FIP

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see [BEM 228](#), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

See [BEM 233B](#) for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see [BEM 233C](#).

### NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELFSUFFICIENCY RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

**Noncompliance** of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

**Exception:** Do not apply the three or 12 month penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens.

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- 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.

**Note:** FIS should clear any alerts relating to rejected JET refunds and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

- Develop a Family Self-Sufficiency Plan (FSSP).

**Note:** FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP completion.

- Comply with activities assigned on the 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.

**GOOD CAUSE FOR  
NONCOMPLIANCE**

**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.

**NONCOMPLIANCE  
PENALTIES AT  
APPLICATION**

Noncompliance by a WEI while the application is pending results in **group** ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending must have benefits delayed.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening.

In this case the Department case worker testified that she took action on the application when [REDACTED] did not go to JET because the application was already past the 45 day standard of promptness period.

[REDACTED] testified that he called JET because he was not going to be able to go on September 20 and they told him he could come in the next Monday September 27 because he had 20 days to attend. The Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) does specifically state that the participant is required to attend within 20 days. October 6, 2010 was the last date for [REDACTED] to attend.

In light of the large number of benefit recipients and family who vigorously resist participation in JET, the case workers assumption and action is completely understandable. However, denying Claimant's application on the basis of Mr. Pope's failure to attend JET before the end of his time limit for attending was incorrect.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT properly deny Claimant's Family Independence Program (FIP) application for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that Claimant's July 29, 2010 application for Family Independence Program (FIP) benefits be reinstated and an eligibility determination made using actual facts as they existed at the 45 day standard of promptness date. A Notice of Case Action (DHS-1605) shall be issued on that determination and if approved Claimant shall be supplemented any benefits she did not receive but was otherwise eligible for.

/s/ \_\_\_\_\_

Gary F. Heisler  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 29, 2010

Date Mailed: December 29, 2010

**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.

GFH/tg

cc:

