

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-23945

Issue No: 1038



Calhoun 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 March 4, 2011. After due notice, a telephone hearing was held on May 18, 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. Claimant signed a contract with JET on November 1, 2010, agreeing that she was required to notify JET and the department immediately if she lost her job for any reason. (Department Exhibits 24-25).
3. Claimant informed JET on January 19, 2011, that she was no longer working at Target, because the employment had been seasonal. Claimant was asked if she had notified the department and Claimant stated she had. JET contacted the department and the department had not been notified that Claimant was no longer employed. (Department Exhibit 22).
4. On January 20, 2011, Claimant was referred to Triage for failing to report her job loss. (Department Exhibits 1-2, 22).

5. The department mailed Claimant a Notice of Noncompliance on January 22, 2011, informing her of her Triage date of February 4, 2011, at 1:10 P.M. (Department Exhibits 3-4).
6. On January 25, 2011, Claimant informed her case worker that she was no longer working at Target because the position had been for the Christmas season only. Claimant was unable to give her last date of employment. The department verified Claimant's employment with Target through the Work Number which showed she began working on December 10, 2010, and her last day worked was December 28, 2010. (Department Exhibits 5-7).
7. On January 28, 2011, the department notified JET that Claimant was unable to attend Triage on February 4, 2011, due to her work schedule with Stuart Industries. A Notice of Noncompliance was mailed to Claimant informing her that her Triage was rescheduled for February 8, 2011 at 3:30 P.M. at Claimant's request. (Department Exhibits 8, 12-13, 21).
8. A Verification Checklist was mailed to Claimant on January 28, 2011, requesting proof of Loss of Employment through Employment Records, Employer Statement or a DHS-38, Verification of Employment, due February 7, 2011. (Department Exhibits 9-11).
9. On February 8, 2011, Claimant did not show for Triage and presented no good cause prior to the Triage for not notifying the department of her job loss. No good cause was found. (Department Exhibit 21).
10. The department mailed Claimant a Notice of Case Action on February 26, 2011, informing Claimant that her FIP program was being closed as of April 1, 2011, because she failed to participate in employment and/or self-sufficiency related activities. (Department Exhibits 26-33).
11. Claimant submitted a hearing request on March 4, 2011, protesting the closure of her FIP benefits. (Request for a Hearing).
12. This is Claimant's second non-compliance with the FIP program. (Department Exhibits 3-4, 26-33).

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.

The policies in this item apply to all FAP applicants and recipients age 16 and over. Noncompliance without good cause, with employment requirements for FIP/RAP (see BEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233B.

In this case, Claimant was required to participate in the JET/Work First program as a condition of receiving her FIP benefits. On January 19, 2011, Claimant's JET case worker asked Claimant how her job at Target was going and Claimant stated she was no longer working at Target. Claimant was unable to provide the department with the date she last worked at Target.

The department followed up with Work First and found Claimant's last day of employment was December 28, 2010. Triage was originally scheduled for February 4, 2011, then rescheduled to February 8, 2011 at Claimant's request. Claimant failed to attend her Triage appointment and did not call or provide the department with good cause prior to the Triage. Therefore, the department found Claimant did not show good cause for failing to timely notify the department of her job loss at [REDACTED], or her failure to resume her job search or attend the Triage.

Claimant testified that she was unable to attend the Triage because she had a mandatory 12-hour shift on February 8, 2011, from 5:30 A.M. to 5:30 P.M. However, Claimant failed to provide any documentation to support this claim. Based on a conversation with Claimant on March 4, 2011, the department contacted Claimant's employer at Stuart Industries and was informed that her last day of work was February 8, 2011. Claimant also told the department that she was now employed at [REDACTED]. The department contacted [REDACTED] and was told that Claimant had walked off the job and was no longer employed.

The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant failed to show good cause for failing to notify the department of her job loss from [REDACTED] or her failure to resume her job search or attend the Triage. 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 3-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: _____

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 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/ds

[REDACTED]