

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201124447
Issue No: 1038
Case No: [REDACTED]
Hearing Date: May 11, 2011
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37 upon Claimant request for a hearing. After due notice, a telephone hearing was held on [May 11, 2011](#). The Claimant was present and testified.

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for non-compliance 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 was receiving FIP benefits.
2. On December 20, 2010, [REDACTED] was added to the Claimant's FIP case because she was residing in his home with him.
3. The Department referred [REDACTED] to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits.
4. On [REDACTED] failed to comply with the JET program requirements beginning the week of January 4, 2011 and he failed to comply with the Family Automated Screen Test (FAST). (Department Exhibit 1, pgs 7-9)
5. On January 28, 2011, [REDACTED] was sent a notification for a triage meeting on February 15, 2011. (Department Exhibit 1, pg 4-5).

6. [REDACTED] failed to appear for the triage meeting on [REDACTED].
7. On [REDACTED] the Department notified the Claimant that her FIP benefits were closed for Mr. Stegall failure to attend the JET program requirements. (Department Exhibit 1, pgs 10-13).
8. The Claimant contacted the Department on March 8, 2011, and reported that she moved from [REDACTED] home in February. (Department Exhibit 1, pg17)
9. The Department received the Claimant's request for a hearing on March 8, 2011.

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 - .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). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. 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:

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. BEM 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. BEM 230A, p. 1.

Non-compliance 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, pp. 1-2.

The Department is required to send a DHS-2444, Notice of Employment and/or Self Sufficiency Related Non-compliance within three days after learning of the non-compliance which must include the date of non-compliance, 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, p. 9

Good cause is a valid reason for non-compliance 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, 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. BEM 233A, p. 9

The penalty for non-compliance 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 non-compliance as noted in “First Case Non-compliance 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 non-compliance penalties. BEM, Item 233A.

Non-compliance, 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 non-compliance. BEM 233b, p. 1 The FAP group member should be disqualified for non-compliance when all the following exist:

- The client was active both FIP and FAP on the date of the FIP non-compliance, 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 non-compliance. BEM 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 non-compliances or 12 months for the third and subsequent non-compliances) after the FIP case closes for employment and/or self sufficiency-related non-compliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

Noncompliant Member Leaves The Home

If the noncompliant member LEAVES the home PRIOR to issuing a DHS-2444, Notice of Non-compliance, do not act on the closure. If the noncompliant member joins a new group in this instance, the penalty would apply to the new group. Continue to process the good cause determination and non-compliance for the new group.

If the noncompliant member LEAVES the home AFTER a DHS-2444, Notice of Non-compliance is sent or the FIP closure has taken effect, continue to impose the sanction for the remainder of the sanction period on the original FIP group. The noncompliant member takes their individual penalty counter with them to the new group and reduces the case penalty counter of the original group. BEM 233A

Responsibility to Report Changes All Programs

This section applies to all groups **except** most FAP groups with earnings. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. Other changes must be reported within 10 days after the client is aware of them. These include, but are **not** limited to, changes in:

- 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. BAM
105 pg. 7

In this case, the Claimant was required to list, [REDACTED] as part of her household as she was living with him. Because he was part of the Claimant's household, [REDACTED] was referred to the JET/Work First Program. As part of the program, the Claimant was required to complete FAST and provide verification of job search activities. [REDACTED] did not comply with either of the program requirements. Therefore, the Department properly scheduled a triage meeting. Because [REDACTED] failed to appear for the triage meeting, the Department was unable to find good cause for [REDACTED] failure to comply with the JET program requirements.

Department policy requires that a sanction be imposed to the FIP group because [REDACTED] failed to comply with the requirements. BEM 233A. In this case, this would be the first non-compliance. Although the Department worker testified that failure to attend the triage created a second non-compliance, this is considered one non-compliance as defined by policy. BEM 233A.

The Claimant states that her FIP case should not be closed as a result of [REDACTED] actions. She testified that she moved out of [REDACTED] home in February. She states that it was sometime in the middle of the month. The Department does not dispute this claim. However, the Claimant can not be more specific as to the date she moved out.

The Claimant did not report moving until March 8, 2011. The date the Claimant moved out of [REDACTED] home is important because sanctions to the Claimant are dependent upon the date that she left the noncompliance member's household. The DHS 2444 was sent to [REDACTED] on [REDACTED]. It was the Claimant's responsibility to report her change in address or household within 10 days of the occurrence. BAM 105. Because the Claimant did not report moving from [REDACTED] household until March 8, 2011, it is found that Claimant was still a part of [REDACTED] household on February 9, 2011.

The Claimant did not leave [REDACTED] household until after the DHS 2444 was sent. Therefore, based on Department policy, it is found that the Department is required to impose the sanction on the original FIP group. Therefore, the Claimant's FIP case is required to be sanctioned because a group member, [REDACTED], was in noncompliance. From the record, this is a first violation which requires a minimum 3 month sanction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did properly terminate the Claimant's FIP case for failure to comply with the JET program.

It is SO ORDERED.

/s/
Kandra Robbins
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 23, 2011

Date Mailed: May 23, 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 mailing 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.

KKR/ar

cc:

