

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2011-30366
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: July 13, 2011
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Port Huron, Michigan on Wednesday, July 13, 2011. The Claimant appeared, along with [REDACTED] and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") due to her failure to comply with the Jobs, Education, and Training ("JET") program without good cause?

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 a FIP recipient.
2. On March 11, 2011, the Department sent a JET Notice to the Claimant instructing her to report to the JET program on March 28, 2011 at 8:30a.m. (Exhibit 1, p. 2.)
3. The Claimant contacted the Department stating she was unable to attend on March 28th because she would be in [REDACTED].

4. As a result, the Department told the Claimant that she would be rescheduled to April 4th at 8:30a.m.
5. On March 25, 2011, the Department sent the JET Appointment Notice to the Claimant informing her of the new appointment date and time. (Exhibit 1, p. 3.)
6. The Claimant returned from Arizona on Saturday, April 2nd.
7. On Monday, April 4th, after the scheduled appointment time, the Claimant contacted the JET program, stating she had car problems and inquired about coming late.
8. The Claimant was informed she would not be able to participate because she was late.
9. On April 5, 2011, a Notice of Non-Compliance was sent to the Claimant instructing her to appear for a triage on April 8, 2011 at 8:10a.m. (Exhibit 1, pp. 4, 5.)
10. The Claimant attended triage stating she was unable to attend due to child care issues.
11. The Department found that good cause was not established for the non-compliance. (Exhibit 1, p. 6.)
12. On April 15, 2011, a Notice of Case Action was mailed to the Claimant informing her that her cash assistance would terminate effective May 1, 2011. (Exhibit 1, pp. 7, 8.)
13. Due to the third non-compliance, the Department sanctioned the Claimant's case for one year. (Exhibit 1, p. 8.)
14. On April 21, 2011, the Department received the Claimant's written 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 ("DHS" or "Department"), formally 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 Bridges Reference Manual (“RFT”).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals (“WEI”), unless deferred, are required to engage in employment or participate in other approved activities. BEM 230A. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program or other employment service provider. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency-related activities that are based on factors beyond the control of the non-compliant person. BEM 233A. A claim of good cause must be verified and documented. BEM 233A. Good cause exists when a client is physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. BEM 233A. The first and second occurrences of non-compliance result in a 3-month FIP closure. BEM 233A. Further occurrences of non-compliance result in a 12-month FIP sanction. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. In addition, a triage must be held within the negative action period. BEM 233A. A good cause determination is made during the triage and prior to the negative action effective date. BEM 233A.

In this case, the Claimant received the JET Appointment notice instructing her to attend the JET program on Monday, March 28, 2011 at 8:30a.m. The Claimant contacted the Department stating she was unable to attend because she would be in [REDACTED]. As a result, the JET appointment was rescheduled to April 4th at 8:30a.m. The Claimant returned from [REDACTED] on Saturday, April 2nd. After her scheduled appointment time, the Claimant contacted the JET program stating she was having some car issues and inquired if she could report late. The Claimant was informed that she would be unable to participate. The JET Appointment Notice specifically states:

“DHS will help you with transportation and child care if needed to attend the WF/JET. Tell your specialist if you need help with transportation or child care right away.”

Additionally, the Notice provided:

“YOU WILL NOT BE ADMITTED IF YOU ARE LATE.”

And finally, the Notice states that if an individual is unable to keep the appointment, the individual should contact the Specialist **before** the missed appointment.

Pursuant to policy, the Department sent the Claimant a Notice of Non-Compliance instructing her to attend an April 8th triage. During the triage, the Claimant stated that she had previously been deferred from JET participation and that she had childcare issues. The Claimant did not notify the Department of any barriers (childcare or transportation) prior to missing the April 4th, 8:30 a.m. appointment. As noted above, the Department would have been able to assist with either or both issues had the Claimant timely informed the Department. Ultimately, the Department established it acted in accordance with Department policy when it found good cause was not found for the JET non-compliance resulting in the termination of FIP benefits. Accordingly, the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department established it acted in accordance with Department policy when it terminated the Claimant's FIP assistance due to JET non-compliance without good cause.

Accordingly, it is ORDERED:

1. The Department's FIP determination is AFFIRMED.
2. The 12-month FIP sanction is imposed.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 15, 2011

Date Mailed: July 15, 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.

CMM/cl

cc:

