

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

IN THE MATTER OF:



Reg. No: 2011-34032
Issue No: 1038


Saginaw 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 April 18, 2011. After due notice, a telephone hearing was held on July 6, 2011. Claimant appeared and provided testimony.

ISSUE

Did the department properly terminate and sanction Claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

FINDINGS OF FACT

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

1. At the time relevant to this matter, Claimant was a recipient of FIP benefits and a mandatory WF/JET participant.
2. On October 7, 2010, WF/JET documented Claimant's failure to call or show for her appointment. WF/JET mailed Claimant a letter scheduling an appointment for her on October 11, 2010 at 11:30 A.M. The letter warned Claimant that if her contract was not submitted on October 11, 2010, her case would be placed in non-compliance. (Department Exhibit 4).
3. On October 11, 2010, Claimant submitted her contract. WF/JET noted that Claimant had been living at the Rescue Mission and had found housing which would eliminate housing as a barrier to employment. (Department Exhibit 4).

4. On October 22, 2010, WF/JET contacted Claimant and left a message at the rescue mission for her to call her case worker regarding her missed appointment on October 22, 2010. (Department Exhibit 4).
5. On October 25, 2010, Claimant contacted her caseworker at WF/JET and stated she missed her appointments on October 22, 2010 and October 25, 2010, due to transportation and daycare issues. WF/JET mailed Claimant a self-addressed stamped envelope at the rescue mission to assist her in turning in her paystubs and job search logs. WF/JET also told Claimant that she had to attend the Training orientation on October 25, 2010 or she would be in non-compliance. (Department Exhibits 3-4).
6. Claimant did not attend the Training orientation on October 26, 2010. Claimant called WF/JET after the training to inform them she had difficulty with transportation and housing. Claimant was informed she would have the opportunity to submit paystubs and job search logs on October 27, 2010 or her case would be placed in non-compliance on October 28, 2010. (Department Exhibits 3-4).
7. On October 28, 2010, Claimant was a no call, no show for her appointment with WF/JET. (Department Exhibit 3).
8. On November 22, 2010, WF/JET manager requested that Claimant be re-engaged. A letter was mailed to Claimant informing her she had a meeting with the career manager on November 29, 2010 at 12:00 P.M. (Department Exhibits 3, 7).
9. On November 29, 2010, Claimant was a no call and no show for her noon appointment. (Department Exhibit 3).
10. On December 20, 2010, Claimant's file was placed into Intent to Terminate due to Claimant not responding to appointments or letters for the months of November and December 2010. (Department Exhibit 3).
11. On January 14, 2011, the department mailed Claimant a Notice of Noncompliance (DHS-2444), for her failure to participate as required in employment and/or self-sufficiency related activities on October 7, 2010 and December 20, 2010. The Notice indicated that this was at least the third time that a member of Claimant's FIP group was non-compliant and scheduled a Triage appointment for Claimant for January 25, at 1:35 P.M. (Department Exhibits 1-2).
12. On January 25, 2011, Claimant did not attend her Triage appointment, did not contact the department, and did not provide documentation to establish good cause for her noncompliance. (Department Exhibits 3, 5).

13. On January 26, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605), indicating that her FIP case would be closed and sanctioned from March 1, 2011 through February 29, 2012, due to Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause. (Department Exhibits 8-9).
14. On April 18, 2011, Claimant submitted a hearing request protesting the closure of her FIP case and sanctions.

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. 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 of that decision. 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 Reference Tables Manual (RFT).

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 Licensing and Regulatory Affairs (LARA) 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.

In this case, Claimant was required to participate in the WF/JET program as a condition of receiving her FIP benefits. The department found that Claimant was noncompliant for having failed to participate as required in employment and/or self-sufficiency related activities during the month of October 2010 and December 20, 2010 without good cause.

Claimant testified that she never received the letter scheduling her for the December 20, 2010 appointment to reengage in WF/JET because she was living at the Rescue Mission. However, the department had no record of returned mail and Claimant had not changed her address with the department.

Claimant and her grandmother both testified that Claimant did show for the Triage on January 25, 2011 at 1:00 P.M., but were informed in the lobby that she was not scheduled. Claimant testified that she then called her caseworker from the lobby and her caseworker also told Claimant that she was not scheduled for the Triage. Claimant's caseworker was then sworn in and testified that she did not recall Claimant's telephone call or speaking with her at any time about the Triage.

Claimant and her grandmother testified that she had the Notice of her Triage with her when she arrived in the lobby on January 25, 2011. The department pointed out that the Notice plainly states that the appointment was for 1:35 P.M. on January 25, 2011, and lists the location, the name of the worker to contact and the worker's telephone number. The worker was present at the hearing and testified that Claimant did not call or show for the Triage and that had Claimant presented her copy of the Notice to anyone in the lobby, she would have received a telephone call because her telephone number is on it. In addition, the receptionist in the lobby would also have a Triage Schedule with Claimant's name on it.

This Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for her failure to participate as required in employment and/or self-sufficiency related activities during the month of October 2010 or her failure to appear for her appointment on December 20, 2010. Therefore, 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 non-compliance with WF/JET requirements and the twelve-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: 7/11/11

Date Mailed: 7/11/11

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

