

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20113596

Issue No: 1038

[REDACTED]

[REDACTED]

Kent County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on September 16, 2010. After due notice, a telephone hearing was held on Wednesday, January 12, 2011.

**ISSUE**

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance 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 received FIP benefits until October 1, 2010.
2. The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits.
3. The Claimant failed to attend her JET appointment on August 12, 2010.
4. The Department conducted a triage meeting on September 1, 2010.
5. On September 2, 2010, the Department notified the Claimant that it would terminate her FIP benefits as of October 1, 2010.

6. The Department received the Claimant's request for a hearing on September 16, 2010, protesting the termination of her FIP benefits.

### **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) 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 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. PEM 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. PEM 230A, p. 1.

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. PEM 233A, pp. 1-2.

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. PEM 233A, p. 9

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. PEM 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. PEM 233A, p. 9

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. PEM, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE PEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. PEM 233b, p. 1 The FAP group member should be disqualified for noncompliance when all the following exist:

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

The Claimant was an ongoing FIP recipient until October 1, 2010, and the Department had referred her to the JET program as a condition of receiving FIP benefits. The Claimant failed to attend her JET appointment on August 12, 2010. The Department conducted a triage meeting on September 1, 2010, where the Claimant was given the opportunity to establish good cause for her noncompliance with the JET program. The Department did not find good cause, and it sanctioned her FIP benefits as of October 1, 2010.

The Claimant did not dispute that she failed to attend her JET appointment, but argued that she did have good cause for her noncompliance with the JET program.

The Claimant argued that a debilitating illness was a barrier to her participation in the JET program. The Claimant testified that she suffers from depression. The Claimant testified that has been under treatment for depression, but that she had not been taking her medication before being separated from the JET program.

Good cause can be established where the client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client. BEM 233A.

The Department's representative testified that no medical documentation was available during the triage meeting to verify the Claimant's debilitating illness. No additional medical documentation was available during the hearing.

The Claimant argued that a lack of childcare was barrier to her participation in the JET program. The Claimant testified that she took in a homeless child and could not attend her JET appointment to care for this child.

Good cause can be established where the client has requested child care services from the Department prior to case closure for noncompliance, and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site. BEM 233A. Childcare services may be granted to a parent or parent substitute, which includes he child's legal or biological parent(s), the child's stepparent, the child's foster parent(s), the child's legal guardian(s). BEM 703.

No evidence was presented that the Claimant requested childcare services from the Department prior to her case closure. Furthermore, the Claimant was not a parent or parent substitute for the child she cared for. Since the Claimant was not eligible for child care services in this case, the Department properly determined that the Claimant did not have good cause due to unmet childcare needs.

