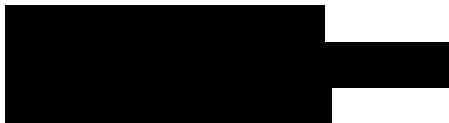


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201140007
Issue No: 1038
Case No: [REDACTED]
Hearing Date: August 24, 2011
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on August 24, 2011. The Claimant and Agency appeared by telephone and provided testimony.

ISSUE

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

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. Claimant has participated in WF/JET off and on since at least August 16, 2010.
2. On September 16, 2010, the Department placed the Claimant in triage for failing to meet job search requirements. On or around September 30, 2010, the Claimant participated in a scheduled triage. On or around September 30, 2010 the Department did not find good cause to nullify the Claimant's failure to meet her job search requirements. (Department Exhibits, pp. 3, 21).
3. On November 15, 2010, the Department placed the Claimant in triage for failing to meet participation requirements for six consecutive weeks. On or around November 23, 2010, the Claimant participated in a scheduled triage. On or around November 23, 2010, the Department did not find good cause to nullify the Claimant's lack of participation. (Department Exhibits, pp. 2, 21).
4. On December 21, 2010, the Department closed Claimant's FIP case as a result of the November 23, 2010 triage. (Department Exhibit, p. 1).

5. On April 4, 2011, the Claimant attended orientation. The Claimant indicated to the Department she was currently attending school. The Claimant and the Department agreed the Claimant would be granted 11 hours of school per week that could be allocated to her required 20 hours of job search. The remaining 9 hours could be attained by job search or community service. The Department provided the Claimant with a contract to turn in if she was going to pursue community service hours. (Department Exhibits, pp. 1, 4-9, 22).
6. On or around April 4, 2011, the Department discussed with Claimant the two locations to report to (Albion, Battle Creek) and discussed different methods of transportation assistance.
7. On April 12, 2011, the Claimant reported to the WF/JET office. The Claimant indicated she did not have any hours to turn in for the prior week. The Department worker told the Claimant to turn in her contract for community service and her hours for next week or else she would be sent to triage. (Department Exhibit, p. 1).
8. The Claimant did not turn job logs for the weeks of April 3, 2011, April 10, 2011, or April 17, 2011. The Claimant did not show up for her mandatory reporting on April 11, 2010, April 18, 2011 or April 25, 2011.
9. On April 21, 2011, the Department placed the Claimant in triage for nonparticipation and failure to turn in required logs.
10. On May 27, 2011, a triage took place. The Claimant did not participate in the triage. The Department did not find good cause for the Claimant's nonparticipation and failure to turn in required logs.
11. On June 10, 2011, the Department issued the Claimant a Notice of Case Action. (Department Exhibit, pp. 18-20).
12. On June 20, 2011, the Claimant requested a 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) 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 (BRM).

Department policy states:

DEPARTMENT PHILOSOPHY

FIP

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY

FIP

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. (BEM 233A, p. 1).

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. 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) or PRPFC.
- .. Appear for a scheduled appointment or meeting related to assigned activities.
- .. Provide legitimate documentation of work participation.
- .. 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).

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

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 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 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

TRIAGE

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. Locally coordinate a 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, offer a phone conference at that time. Clients must comply with triage requirement within the negative action period.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box “Client Agreed by Phone”. Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

Determine good cause 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.

If the FIS, JET case manager, or MRS counselor do not agree as to whether “good cause” exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

Note: Clients not participating with JET must be scheduled for a “triage” meeting between the FIS and the client. This does not include applicants. (BEM 233A, p. 7).

Good Cause Established

If the client establishes good cause within the negative action period, do **NOT** impose a penalty. See “Good Cause for Noncompliance” earlier in this item. Send the client back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. Do not enter a new referral on ASSIST. Enter the good cause reason on the DHS-71 and on the FSSP under the “Participation and Compliance” tab.

Good Cause NOT Established

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. (BEM 233A, pp. 10-11).

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. (BEM 233A).

Based on the testimony and exhibits provided, I find the Department workers to be more credible than the Claimant. The Department workers had a clearer grasp of the times, dates and events in question.

The Claimant has a long history of non-compliance with WF/JET dating back to mid-2010. Based on the testimony provided, the Department gave the Claimant several opportunities to stay in the program. The Claimant's only argument as to why she was non-compliant was a lack of transportation. However, the Department offered transportation to the Claimant and provided information regarding the payment of mileage. In this case, the Claimant made no attempt to make use of the transportation options made available by the Department.

I also find it very troubling that the Claimant argues for a reduced set of log hours based on her attendance in school. But when asked how she was able to get to and from school with no transportation, the Claimant goes on to say she did real bad in school because she was unable to attend on most days due to transportation.

Therefore, based on the evidence presented, I find the Claimant was non-compliant with WF/JET requirements. I do not find the Claimant's failure to comply amounts with good cause.

Accordingly, I find the Department's actions should be **AFFIRMED**.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department properly terminated and sanctioned the Claimant's Family Independence Program (FIP) benefits for noncompliance with WF/JET requirements.

Accordingly, the Department's actions are **AFFIRMED**.

/s/

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 25, 2011

Date Mailed: August 25, 2011

heading

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.

CAA/cr

cc:

