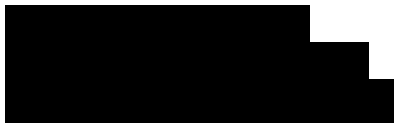


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201149740
Issue No: 1005
Case No: [REDACTED]
Hearing Date: October 20, 2011
Kent 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 October 20, 2011. The Claimant and Agency appeared by telephone and provided testimony.

During the hearing, the Department and the Claimant stipulated to the fact this was the third time the Claimant was found to be in noncompliance.

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

1. On or around March 16, 2011 the Claimant's deferral from WF/JET ended.
2. On or around March 16, 2011, the Department sent the Claimant a JET Appointment Notice. The Notice required the Claimant to participate in a JET orientation on March 23, 2011 at 9:00 am. (Department Exhibit 1).
3. On March 23, 2011, the Claimant failed to participate in JET.
4. On April 7, 2011, the Department sent the Claimant an Appointment Notice and Notice of Noncompliance. Both of the Notice's indicated the Claimant was to attend a meeting on April 18, 2011 at 9:00 am to discuss the reasons why the Claimant did not participate in the March 23, 2011 orientation. (Department Exhibit 2).

5. On April 18, 2011, the Claimant participated in the meeting. During the meeting, the Claimant told the Department she needed a medical deferral. During the meeting, the Department provided the Claimant with the necessary medical documentation for a medical deferral. The Department told the Claimant she would need to participate in JET if she did not turn in the medical deferral forms.
6. On April 21, 2011, the Department sent the Claimant a JET Appointment Notice. The Notice indicated the Claimant was to participate in JET on May 4, 2011 at 9:00 am. (Department Exhibit 6).
7. On May 4, 2011, the Claimant failed to participate in the scheduled JET meeting.
8. On May 16, 2011, the Department sent the Claimant a Notice of Noncompliance. The notice indicated the Claimant was to attend a meeting on May 26, 2011 to discuss the reasons why the Claimant did not participate in the May 4, 2011 JET meeting. (Department Exhibit 8, 9).
9. On May 26, 2011, the Claimant turned into the Department several doctor's notes. (Department Exhibit 10, 12, 13). None of the Doctor's notes excused the Claimant from JET participation on May 4, 2011. On May 26, 2011, the Department found the Claimant lacked good cause for her failure to participate in JET on May 4, 2011.
10. At no point in time did the Claimant submit the medical forms needed for the Department to determine whether the Claimant was eligible for a medical deferral.
11. On June 14, 2011, the Department sent the Claimant a Notice of Case Action. (Department Exhibit 15, 16).
12. On August 5, 2011, the Claimant filed a request for hearing protesting the June 14, 2011 Notice of Case Action.

CONCLUSIONS OF LAW

The 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 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 Program Reference Manual (PRM).

Department policy indicates:

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.

GOOD CAUSE FOR NONCOMPLIANCE

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. Document the good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

Good cause includes the following:

- . The person is working at least 40 hours per week on average and earning at least state minimum wage.
- . The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

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.

When to Disqualify

- . Disqualify a FAP group member for noncompliance when:
- . The client was active both FIP and FAP on the date of the FIP noncompliance, and
- . The client did not comply with FIP employment requirements, and
- . The client is not deferred from FAP work requirements (see DEFERRALS in BEM 230B), and the client did not have good cause for the noncompliance. BEM 233B, p. 1.

When to Request a New MRT Decision

When a Medical Review Team decision has been completed and the client states they have additional medical evidence or a new condition, gather new verification and send for an updated Medical Review Team decision.

The FIS must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency while gathering verification or assisting clients with obtaining medical verification or testing. If testing assistance is

necessary; see BEM 232, Medical Exams, Immunizations and Tests for instructions.

When an individual presents a doctor's note after the Medical Review Team decision but does not have new medical evidence or a new condition, send the DHS-518 to the doctor and request supporting medical evidence.

If new medical evidence is not provided, do not send the case back to the Medical Review Team. The previous Medical Review Team decision stands.

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 evidence and testimony presented, I find the Claimant did not have a valid good cause reason for her non-participation in JET. Although the Claimant insisted she needed a medical deferral, her Doctor's refused to fill out the necessary forms. At that point, the Claimant has no choice but to either find a doctor who would fill out the forms or to participate in JET. The Claimant failed to do both.

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

DECISION AND ORDER

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

1. The Department properly terminated 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: October 24, 2011

Date Mailed: October 26, 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

2011-49740/CAA

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:

