

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

IN THE MATTER OF:



Eaton 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. After due notice, a telephone hearing was held on October 6, 2011. Claimant appeared and provided testimony and was represented by non-attorney [REDACTED].

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 and properly reduce her Food Assistance Program (FAP) benefits because of her FIP sanction?

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 March 17, 2011, the department mailed Claimant a Jobs, Education and Training Appointment Notice, informing her that because her deferral had ended, she had to attend WF/JET on April 11, 2011 at 8:45 A.M. (Department Exhibit 5).
3. On April 19, 2011, Claimant contacted the department and asked for a Medical Needs - JET form. The department mailed Claimant the Medical Needs form on April 19, 2011. (Hearing Summary/Department Exhibit 6).

4. On May 19, 2011, Claimant submitted the completed Medical Needs – JET form to the department. The doctor noted Claimant is diagnosed with depression and anxiety and has limitations of working no more than 4 hours a day. The doctor indicated that this limitation was not expected to last more than 90 days. (Department Exhibits 6-7).
5. On June 13, 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. The Notice indicated that this was the first or second time that a member of Claimant's FIP group was non-compliant and scheduled a Triage appointment for Claimant for June 23, 2011, at 1:00 P.M. (Department Exhibits 8-9).
6. Claimant called the department on June 23, 2011 and requested a telephone Triage. The department called Claimant for the Triage and Claimant stated that she had forgotten about the Triage and Work First and had been sleeping. Claimant did not provide documentation to establish good cause for her noncompliance. (Hearing Summary).
7. On June 23, 2011, the department mailed Claimant a Notice of Case Action (DHS 1605), indicating that her FIP case would be closed and sanctioned from August 1, 2011 through October 31, 2011, due to Claimant's failure to participate in employment and/or self-sufficiency related activities without good cause. The notice also informed Claimant that as a result of her FIP sanction, her FAP was being decreased to \$200.00 a month. (Department Exhibits 12-15).
8. On August 18, 2011, Claimant submitted a hearing request protesting the closure of her FIP case and reduction in FAP benefits.

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, Mich Admin Code, Rules 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 Mich Admin Code, Rules 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.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations when a Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause, or a Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause. At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B.

The department disqualifies a FAP group member 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 (see DEFERRALS in BEM 230B), and
- The client did not have good cause for the noncompliance. BEM 233B.

In this case, Claimant was required to participate in the JET/Work First 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 on April 11, 2011, without good cause.

During the hearing, the departmental representative testified that when Claimant was called for the telephone Triage, Claimant stated that she had forgotten about the Triage and Work First and had been sleeping. Claimant did not dispute the testimony.

Claimant's representative argued that because Claimant had received a medical needs form from the doctor indicating that she could only work 4 hours a day, that this met the definition of a work exemption under MCL 400.57(f). According to MCL 400.57(f), the department may grant a temporary exemption from participation in Work First, not to exceed 90 days, to an individual who is suffering from a documented short-term mental or physical illness, limitation, or disability that severely restricts his or her ability to participate in employment or training activities. An individual with a documented mental or physical illness, limitation, or disability that does not severely restrict his or her ability to participate in employment or training activities shall be required to participate in work first at a medically permissible level. Based on the plain language of the statute, Claimant's representative misrepresented the meaning of MCL 400.57(f) during the hearing.

In addition, departmental policy clearly states that noncompliance means failing or refusing to appear and participate with the Jobs, Education and Training (JET) Program without good cause. Here, Claimant failed to attend JET and failed to offer any reason for failing to do so during her Triage or during the hearing. In addition, the Medical Needs – JET form provided by Claimant clearly states she can work no more than four hours a day and in accord with MCL 400.57(f), an individual with a documented mental or physical illness, limitation, or disability that does not severely restrict his or her ability to participate in employment or training activities **shall be required to participate in Work First** at a medically permissible level. Therefore, 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 failing to participate with JET on April 11, 2011. As a result, the department properly closed Claimant's FIP case for non-compliance. Because Claimant was an active participant in the FAP program at the time of her FIP non-compliance, Claimant's FAP benefits were also properly reduced because she was removed from the FAP group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly reduced Claimant's FAP benefits when the department properly closed Claimant's FIP case for noncompliance with WF/JET requirements and the 3-month FIP sanction and reduction in FAP benefits is **AFFIRMED**.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/12/11

Date Mailed: 10/12/11

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

