

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No: 201219414
Issue No: 1038
Case No: ██████████
Hearing Date: January 18, 2012
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on January 18, 2012. Claimant and her spouse ██████████ appeared and testified.

ISSUE

Did the Department of Human Services properly sanction Claimant's Family Independence Program (FIP) case for failure to participate in employment and/or self-sufficiency related activities?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of Family Independence Program (FIP) benefits.
2. On October 15, 2011, Claimant's spouse, ██████████, was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that ██████████ was required to attend the Work First/Jobs Education and Training Program.
3. ██████████ did not participate in the Work First/Jobs Education and Training Program. ██████████ told JET he was still unable to work and submitted a Medical Needs Form (DHS-54a) which had been signed on May 13, 2011.
4. On November 8, 2011, ██████████ was sent a Notice of Non-Compliance (DHS-2444). The notice scheduled a meeting for November 16, 2011.

5. On November 16, 2011, ██████ attended the scheduled meeting. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities. ██████ was given until November 23, 2011 to provide current medical documentation that he was unable to participate.
6. On November 29, 2011, the Department received a Medical Need - JET (DHS 54E) for ██████. The form indicated that ██████ could work with some physical limitations. Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) case would be sanctioned.
7. On December 7, 2011, the Department received another Medical Need - JET (DHS 54E), from a different Doctor which stated ██████ could NOT work.
8. On December 9, 2011, Claimant submitted a timely request for 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 Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

**BEM 233A
FAILURE TO MEET EMPLOYMENT AND/OR
SELF-SUFFICIENCY- RELATED REQUIREMENTS: FIP**

**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

All Work Eligible Individual (WEI) and adult non-WEIs (except ineligible grantees, clients deferred for lack of child care (DC) and disqualified aliens), see BEM 228, who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

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.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELFSUFFICIENCY 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:

Exception: Do not apply the three or 12 month penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens.

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- 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.

Note: FIS should clear any alerts relating to rejected JET refunds and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

- Develop a Family Self-Sufficiency Plan (FSSP).

Note: FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP completion.

- Comply with activities assigned on the 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.

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.

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.

Begin the sanction period with the first pay period of a month. Penalties are automatically calculated by the entry of noncompliance without good cause on the FSSP. This applies to active FIP cases, including those with a member add who is a WEI JET participant.

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.

In this case ██████ asserts he cannot participate in JET. No other issue or Departmental action has been disputed. The adequacy of medical documentation to support ██████ assertion is the primary question upon which this case depends.

When ██████ was referred to JET October 17, 2011, he submitted a Medical Needs Form (DHS-54a) which had been signed by ██████ on May 13, 2011. On this May 13, 2011, the boxes indicated ██████ could not work at his usual occupation and that ██████ cannot work at any job were checked. However, in the block asking about work at a usual occupation, the Doctor wrote "not sure what the usual occupation is." In the box about working at any job the Doctor wrote "I'm not able to determine this." First, the May 13, 2011 form from ██████ is not sufficiently current for an October 2011 decision about participation. Second, the information on the form is contradictory and therefore insufficient to verify a deferral.

On November 16, 2011, ██████ was given a Medical Need - JET (DHS 54E) which he was to return by November 23, 2011. On November 29, 2011, the form was submitted with the signature of ██████. The form was faxed in to the Department directly from the ██████. The form indicated that ██████ was seen on November 18, 2011, that ██████ is ██████ primary medical provider, and that ██████ can work at any job with minor lifting limitations. There is no contradictory information on this form.

On December 7, 2011, a separate copy of the Medical Need - JET (DHS 54E) ██████ was given on November 16, 2011 was received by the Department. Review of ██████ name written in the Patient' Name block and the Due date written on the form by the DHS case worker show that a copy of the form was made before any information was put on the form by any Doctor. The copy of the Medical Need - JET (DHS 54E) received on December 7, 2011 is signed by ██████. The form indicates that ██████ was seen on November 30, 2011 and that ██████ is his primary medical provider. The form is marked that ██████ cannot work at his usual occupation or any job for lifetime. In sections C and D no limitations have been marked but the yes box is marked to answer whether the limitation will last more than 90 days. In box G it is marked that patient has a medical need for assistance with personal care activities but none of the specific activities are marked. Some of the information within the form shows a significant lack of detail and accuracy. Some of the information within the form contradicts ██████ comments on the May 13, 2011 form bearing his ██████.

On January 10, 2012, the Department received a Medical Examination Report (form DHS-49) and a Medical Need - JET (DHS 54E) which ██████ was given on December 22, 2011. The forms both bear ██████. Both forms indicate that ██████ was last seen on November 30, 2011. On the Medical Examination Report (form DHS-49) nothing is written in the block for history of impairments and chief complaint. ██████ current diagnoses are listed as hypertension, fibromyalgia, and asthma. The form also indicates that ██████ is stable. The Medical Need - JET (DHS 54E) lists the same diagnoses and is marked that ██████ can work at any job. The form does not indicate any physical or mental limitations. Written on the bottom of the form is "the state will have to provide for a functional capacity exam. The Health Department does

not conduct this testing.” All three forms from [REDACTED] (Medical Need - JET (DHS 54E) received December 7, 2011, Medical Need - JET (DHS 54E) received January 10, 2012, and the Medical Examination Report (form DHS-49) received January 10, 2012 are based on [REDACTED] November 30, 2011 visit. However, the two Medical Need - JET (DHS 54E) forms have completely contradictory information regarding [REDACTED] ability to work.

The November 16, 2011, Medical Need - JET (DHS 54E) form signed by [REDACTED] is the only medical documentation in the record not plagued by serious concerns about its reliability. The totality of medical evidence in the record points to a conclusion that [REDACTED] was capable of work at the time he was referred to the Michigan Works Agency/Jobs Education and Training Program (JET) program on October 5, 2011. That conclusion is completely consistent with [REDACTED] direct assessment given on the November 16, 2011, Medical Need - JET (DHS 54E) form he signed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly sanctioned Claimant's Family Independence Program (FIP) case for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 26, 2012

Date Mailed: January 26, 2012

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.

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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.

GFH/vc

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