

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201227467
Issue No: 1038
Case No: [REDACTED]
Hearing Date: March 8, 2012
Lapeer 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 January 23, 2012. After due notice, a telephone hearing was held on Thursday, March 8, 2012. The Claimant did not appear for the hearing, but his interests were represented by his [REDACTED], [REDACTED], an adult member of the Claimant's benefit group.

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 was an ongoing Family Independence Program (FIP) recipient until February 1, 2012.
2. The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits on November 1, 2011.
3. The Claimant was noncompliant with the JET program when he failed to attend JET programming after attending the first day of his JET orientation on November 30, 2011.
4. The Claimant's physician restricted him from walking and standing more than 20 minutes at a time on December 23, 2011.
5. The Department conducted a triage meeting on January 12, 2012, and the Claimant did not attend the triage meeting

6. On January 12, 2012, the Department notified the Claimant that it would sanction his FIP benefits as of February 1, 2012.
7. The Department received the Claimant's request for a hearing on January 23, 2012, protesting the sanctioning of his 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. 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 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. 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.

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, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE BEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233b. 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. BEM 233B.

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 Family Independence Program (FIP) recipient until February 1, 2012, and the Department had referred him to the JET program as a condition of receiving FIP benefits. The Claimant was noncompliant with the JET program when he failed to attend JET programming after attending the first day of his JET orientation on November 30, 2011. The Department conducted a triage meeting on January 12, 2012, where the Claimant was given the opportunity to establish good cause for noncompliance with the JET program. The Claimant did not attend the triage meeting, and the Department did not find good cause. On January 12, 2012, the Department notified the Claimant that it would sanction his FIP benefits as of February 1, 2012.

The Claimant's representative argued that the Claimant had good cause for his noncompliance with the JET program. The representative testified that the Claimant's medical condition and a lack of access to transportation were barriers to his participation in the JET program. The representative submitted a medical note from a physician indicating that the Claimant was restricted from walking and standing for more than 20 minutes at a time. The representative testified that the Department was aware that the Claimant's car was not running and that transportation to the JET program location would be a problem.

Good cause can be established where the client requested transportation services from the Department and reasonably priced transportation is not available to the client. BEM 233A. A claim of good cause must be verified and documented. BEM 233A. In this case, the Claimant did not attend the triage meeting, and the Department considered whether he had good cause without additional input. The Department's representative testified that mileage and bus tokens would be provided to JET program participants, and that no evidence of a lack of transportation was available during the triage meeting. The Department may have been aware that the Claimant's car needed repair, but no evidence was presented that this was the Claimant's only means of attending the JET program. This Administrative Law Judge finds that the Claimant failed to establish that transportation was a barrier to the Claimant's participation in the JET program.

The Claimant's representative submitted medical documentation that indicates the Claimant was restricted from walking and standing for more than 20 minutes at a time after December 23, 2011. This documentation does not establish that the Claimant is not capable of participating in the JET program and no evidence was available showing that the Claimant requested a special accommodation from the JET program administrators.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant did not have good cause to excuse his noncompliance with the JET program. The Department's determination that the

Claimant did not have good cause for his noncompliance with the JET program is reasonable. The Department has established that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with the JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program.

The Department's FIP sanction is **AFFIRMED**. It is SO ORDERED.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 12, 2012

Date Mailed: March 12, 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 60 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.

KS/tb

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