

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

IN THE MATTER OF:



Reg. No.: 201253085
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 14, 2012
County: Macomb County DHS #20

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 June 14, 2012. The Claimant and Department of Human Services (Department) 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. On January 24, 2012, charges were filed by the City of Warren vs. [REDACTED]. The Charges were filed pursuant to a domestic assault involving the Claimant.
2. On January 30, 2012, the Claimant enrolled in WF/JET.
3. On January 31, 2012, the Claimant participated in a WF/JET activity.
4. On February 1, 2012, February 2, 2012, February 3, 2012 and February 6, 2012, the Claimant failed to appear or participate in assigned WF/JET activities.

5. At some point in time between January 24, 2012 and February 16, 2012, the Claimant told the Department she was having problems with her mailing address and preferred to pick up her Department mailings at the physical Department office rather than have them mailed.
6. Between approximately January 24, 2012 and February 23, 2012, the Claimant lived and stayed at either her mother's home or her god mother's home.
7. At no point in time did the Claimant return to WF/JET. At no point in time did the Claimant go to the local Department office to pick up her mailings.
8. On February 16, 2012, the Department issued the Claimant a notice of noncompliance. The notice indicated a triage was to take place on February 23, 2012 at 2:00 pm.
9. On February 23, 2012 a triage took place in the absence of the Claimant. The Department determined the Claimant did not have good cause for her noncompliance.
10. On February 23, 2012, the Department issued the Claimant a notice of case action. The notice indicated the Claimant's FIP benefits were closing due to noncompliance with WF/JET.
11. On May 14, 2012, the Claimant requested a hearing in protest of the February 23, 2012 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).

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.

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.

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 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.

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.

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.

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.

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.

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.

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.

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.

In this case, the Claimant indicated there was a domestic violence issue that occurred on January 24, 2012 which resulted in her not being able to fulfill her WF/JET responsibilities. The Claimant however enrolled and participated in WF/JET after the incident. When I asked the Claimant about the timing discrepancy the Claimant responded the incident resulted in an onset of mental health issues. The Claimant further clarified that the mental health issues were the reasoning behind why she missed her scheduled WF/JET appointment times. The Claimant however did not present any documentation to substantiate this claim. The documentation regarding the mental health condition (medical needs form) was not completed by a health professional and further contained several questionable markings. One of the first things I noticed about the medical needs form was a 2011 fax marking at the top of the page; I also noticed part of the form was completed using 2011 dates while other portions of the form contained 2012 dates. Although the form contained some questionable markings, it does not address the January and February time periods in question. Therefore, there is zero evidence outside of the Claimant's own self serving testimony to indicate any mental health conditions as having contributed to the Claimant's noncompliance.

In addition to the two arguments regarding domestic violence and mental health issues, the Claimant argued that she was homeless. The Claimant did not indicate homelessness as being a reason as to why she couldn't participate in WF/JET. The Claimant only argued that the homelessness prevented her from participating in the triage because she did not receive the notice of noncompliance.

During the Claimant's testimony regarding the homelessness periods, she indicated the homelessness began on or around January 24, 2012 and continued up through the timing of the hearing. Early on in the questioning, the Claimant indicated she had stayed for a period in a homeless shelter. However upon further questioning to clear up the timelines, the Claimant did not indicate any stays at a homeless shelter. Furthermore, the Claimant at no time indicated to the Department that she was homeless; she only indicated that she was having trouble receiving her mail. In addition, at the time the Claimant changed her address to that of the local office, she understood it was her responsibility to pick up her mail and notices at the local office. Therefore, the Claimant had and understood the responsibility to pick up her mail at the office location. If at some point the Claimant found it was going to be difficult to pick up her mail as she indicated during the hearing, she should have called the local office and arranged to receive her mail by some other means.

Because of the Claimant's inconsistent testimony and lack of corroborating documentation, I find that the Claimant lacked the necessary good cause to excuse her noncompliance and find the Department acted in accordance with the applicable laws and policies in sanctioning and closing the Claimant's FIP case.

Accordingly, I **affirm** the Department's actions in this matter.

DECISION AND ORDER

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

1. The Department properly closed and sanctioned the Claimant's FIP benefits for noncompliance with WF/JET requirements.

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

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

Date Signed: June 18, 2012

Date Mailed: June 18, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CAA/cr

cc:

