

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

IN THE MATTER OF:



Reg. No: 201253319
Issue No: 1038
Case No: [REDACTED]
Hearing Date: September 4, 2012
Van Buren 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on September 4, 2012. Claimant appeared and testified.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on 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 March 1, 2012, the Medical Review Team made a Jobs Education and Training Program (JET) participation assessment that Claimant was work ready with limitations.
3. On April 2, 2012, Claimant was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that Claimant was required to attend the Work First/Jobs Education and Training Program on April 16, 2012.
4. On April 16, 2012, Claimant did not attend JET. Claimant called her DHS case worker in the afternoon and stated she was supposed to have surgery in a couple of days.

5. On April 18 2012, Claimant was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that Claimant was required to attend the Work First/Jobs Education and Training Program on April 23, 2012.
6. On April 23, 2012, Claimant did not attend JET.
7. On April 24, 2012, the Department received a fax from [REDACTED] ung which stated "[REDACTED] is unable to participate in work first activities for [REDACTED]."
8. On April 24, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for May 4, 2012.
9. On May 4, 2012, Claimant 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.
10. On May 8, 2012 Claimant was sent Notice of Case Action (DHS-1605) stating that her Family Independence Program (FIP) would be sanctioned.
11. On May 15, 2012, Claimant submitted a 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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care and disqualified aliens), see BEM 228, who fails, 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 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:

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

In this case Claimant does not dispute her failure to attend JET. Claimant asserts she is unable to participate due to [REDACTED] and should be deferred from participation. Claimant asserted she is being seen at the [REDACTED] and they are waiting to [REDACTED] on her.

On March 1, 2012, the Medical Review Team (MRT) reviewed the medical records submitted by Claimant and determined she was work ready with limitations. The medical documentation reviewed by MRT included a Medical Examination Report (form DHS-49) and a Medical Needs Form (DHS-54a) completed on September 13, 2011 and a [REDACTED] ordered by MRT and completed on January 18, 2012. At the time of the noncompliance at issue a fax was received from a [REDACTED] which stated "[REDACTED] is unable to participate in work first activities for [REDACTED]." This case file also contains a June 21, 2012 Consultation Summary from [REDACTED] which Claimant submitted with one of her many requests to postpone a hearing on her noncompliance.

This more recent medical information was not part of the MRT review. This more recent medical information is considered in order to best evaluate Claimant's assertion of medical good cause at the time of noncompliance. [REDACTED] recommendation dated April 24, 2012 does not meet the Department policy requirements of good cause due to a lack of any diagnosis or objective medical testing results in support of the recommendation. The June 21, 2012 Consultation Summary from [REDACTED] was signed by [REDACTED] and is based on a physical examination and a review of Claimant's medical, social, and family history. [REDACTED] concluded that Claimant has two simple [REDACTED] in the area of her bladder and ovaries and that both had decreased in size since first detected by ultrasound. The Doctor advised against surgical removal of the cysts due to Claimant's [REDACTED] and was more concerned with addressing Claimant's weight, blood sugar, blood pressure, and tobacco dependence.

Evidence presented at the hearing is not sufficient to establish that Claimant had good cause for her noncompliance due to a medical condition

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly sanctioned Claimant's Family Independence Program (FIP) 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 Corrigan, Director
Department of Human Services

Date Signed: September 10, 2012

Date Mailed: September 11, 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.

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/tb

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