

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

IN THE MATTER OF:



Reg. No.: 201267447
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 2, 2012
County: Kent

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 October 2, 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. It was mandatory for Claimant's to participant in the Michigan Works Agency/Jobs Education and Training Program (JET).
2. On May 18, 2012, Claimant was given a verbal warning for submitting four duplicated jobs search entries on her logs.
3. On June 8, 2012, Claimant's weekly jobs search log was found to have four falsified entries and seven incorrect telephone contact numbers.
4. On June 15, 2012, Claimant's weekly jobs search log was found to have two duplicated jobs search entries. Claimant signed and agreed to the terms of a Probationary Status Form. The terms of the Probationary Status include that any further instance of noncompliance would result in Claimant's file being returned.

5. On June 25, 2012, Claimant's participation requirements were modified. Claimant was required to conduct 13 hours per week of community service and 7 hours per week of job search activity.
6. On July 2, 2012, Claimant's community service site supervisor reported that Claimant had completed 13 hours for the week beginning June 25, 2012. The supervisor also reported that Claimant was being terminated from community service at the site. Specifically the site supervisor wrote that: Claimant had done an assigned task but poorly; had been in an area she (Claimant) was not supposed to be in; speaks over the supervisor; and that because Claimant is far along in pregnancy that the community service site may not be a good match for Claimant.
7. On July 3, 2012, JET worker [REDACTED] recorded that Claimant had submitted 3 duplicated job search leads. The Michigan Works Agency/Jobs Education and Training Program (JET) requested that Claimant be triaged.
8. On July 9, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for July 18, 2012.
9. On July 18, 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. Claimant was sent Notice of Case Action (DHS-1605) stating that her Family Independence Program (FIP) would be sanctioned.
10. On July 23, 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.

This was the fourth instance of falsified/duplicated job leads. At the third instance Claimant had signed and agreed to Probationary Status which meant any further instance of noncompliance would result in Claimant's file being returned. Claimant testified that she had submitted applications or resumes previously and was following up with the potential employers. Claimant testified that she marked the log sheets incorrectly. The JET case worker at this hearing was asked numerous questions in order for this Administrative Law Judge to fully understand this specific County's requirements and rules on job search logs. The information gained was that if Claimant had marked the activity as a follow up, she would have received credit for the same amount of job search activity. However, since she marked the log sheet as "dropped off resume" those entries as considered a duplicate and she does not get credit for the activity. In isolation, that distinction seems trivial. In light of the fact that it was the fourth instance, it shows that Claimant was intentionally refusing to comply with the program requirements. That is an intentional failure to participate in assigned activities.

Regarding the community service activity, Claimant was given credit for her required 13 hours. However, the site supervisor's comments show that Claimant was completely disregarding the requirements of her assigned community service activity. While there was nothing heinous about Claimant's behavior, the behavior was also an intentional failure to participate in assigned activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, 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: October 10, 2012

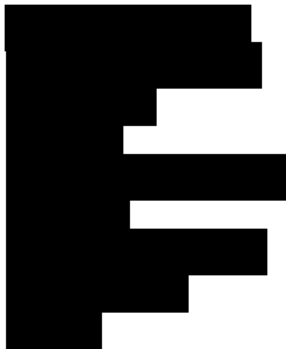
Date Mailed: October 10, 2012

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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