

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

IN THE MATTER OF:



Reg. No: 201270012
Issue No: 1038
Case No: [REDACTED]
Hearing Date: October 10, 2012
Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 telephone hearing was held on October 10, 2012. The claimant appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's application for Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

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 applied for FIP benefits and was referred to the WF/JET program as a participant.
2. On July 13, 2012, the claimant was sent a work participation program appointment notice (DHS 4785) scheduling an appointment for her to attend the WF/Jet program orientation on July 30, 2012. (Department Exhibit 4A).
3. On July 25, 2012, the claimant was sent a second work participation program appointment notice (DHS 4785) scheduling an appointment for her to attend the WF/JET program orientation on August 8, 2012. (Department Exhibit 5A).
4. The claimant did not attend her orientation appointment on July 30, 2012, but did attend on August 8, 2012.

5. Because the claimant did not attend her July 30, 2012 appointment, the department sent the claimant a notice of case action (DHS 1605) on August 3, 2012, stating that her application for FIP benefits was denied. (Department Exhibit 7B).
6. On August 10, 2012, the claimant filed a request for hearing protesting the closure of her FIP benefits.

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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 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 the department when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments are 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 Refugee Assistance Program (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 Energy, Labor and Economic Growth (DELEG) 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 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.

Department policy states:

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 work participation program or other employment service provider.
 - Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
 - Develop a 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.
 - Participate in required activity.
 - 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 pages 1-2.

Policy also states that a WEI must attend the WF/JET program as assigned, even when the FIP application is still pending. Policy states:

When assigned, clients must engage in and comply with all work participation program assignments while the FIP application is pending. Work participation program engagement is a condition of FIP eligibility. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. Bridges automatically denies FIP benefits for noncompliance while the application is pending. BEM 229, page 5, December 1, 2011.

In the case at hand, the claimant was sent two appointment notices to participate in the WF/JET program. At the hearing, the claimant testified that she did not attend the appointment scheduled on July 30, 2012, because she had received a subsequent appointment notice that stated that she had an appointment on August 8, 2012. The second appointment notice (scheduling an appointment for August 8, 2012) was sent to the claimant prior to her first scheduled appointment. The claimant testified that she thought that her appointment had been rescheduled and that is why she attended on August 8, 2012. There was no contention that the claimant was present at WF/JET on August 8, 2012. The department worker testified that the claimant should have contacted the department regarding the discrepancy between the two dates. This Administrative Law Judge does not agree with the assessment of the department that the claimant should have taken the initiative to contact the department regarding the two notices. As the second notice was sent to the claimant prior to her July 30, 2012 appointment, it is completely reasonable for the claimant to assume that she had a new date and that her appointment had been changed to August 8, 2012. Therefore, as the claimant did in fact attend on August 8, 2012, this Administrative Law Judge finds that the claimant was compliant with the WF/JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly denied the claimant's application for Family Independence Program (FIP) benefits for noncompliance with WF/JET requirements.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the claimant shall be allowed to re-engage the WF/JET program. The department shall process the claimant's May 1, 2012 application and determine eligibility in accordance with policy. If the claimant is determined to be otherwise eligible, the department shall issue benefits in accordance with policy and issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

/s/
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 18, 2012

Date Mailed: October 19, 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.

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.

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