

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201271977
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 11, 2012
County: Genesee-06 County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 11, 2012, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

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. As of June 19, 2012, the Claimant was enrolled in WF/JET.
2. On June 19, 2012, the Claimant failed to appear for a scheduled WF/JET appointment. The Claimant called and told WF/JET her husband would be in on June 20, 2012.
3. On June 29, 2012, the Claimant failed to appear for a scheduled WF/JET appointment.
4. On July 3, 2012, the Claimant's husband went to WF/JET but was unable to meet with his case worker.

5. On July 5, 2012, WF/JET contacted the Claimant. The Claimant agreed to come into WF/JET for an appointment on July 6, 2012.
6. On July 6, 2012, the Claimant failed to appear for the scheduled WF/JET appointment.
7. On July 10, 2012, the Claimant called WF/JET and rescheduled the July 6, 2012 appointment to July 11, 2012.
8. On July 11, 2012, the Claimant failed to appear for the scheduled WF/JET appointment.
9. On July 23, 2012, the Department sent the Claimant a notice of noncompliance. The notice indicated a triage was scheduled to take place on August 1, 2012.
10. On August 1, 2012, the Claimant failed to appear for the scheduled triage.
11. On or around August 1, 2012 after the scheduled triage time, the Claimant called the Department and rescheduled the missed triage for August 6, 2012.
12. On August 6, 2012 the Claimant and the Department participated in a phone triage. During the triage, the Claimant failed to present any good cause argument as to the reasons why they could not attend the required WF/JET appointments.
13. On August 6, 2012, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's FIP case was being closed and sanctioned for failing to participate in required WF/JET activities.
14. On August 16, 2012, the Claimant requested a hearing to dispute the FIP closure.

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.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

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 failing to appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.

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.

When a phone triage is conducted for a first noncompliance and the client agrees to comply, complete the DHS-754, First Noncompliance Letter, as you would complete in a triage meeting. Note in the client signature box “Client Agreed by Phone”. Immediately send a copy of the DHS-754 to the client and phone the JET case manager if the compliance activity is to attend JET.

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.

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).

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).

Based on the testimony and the evidence submitted, I do not find the Claimant had good cause for the noncompliance. Although the Claimant alleged to have been sick during the time period in question and alleged to have attended doctors appointments for her son, the Claimant was unable to provide any medical documentation to cover the time period in question.

Therefore, based on material, competent and substantial evidence, I find the Department properly closed and sanctioned the Claimant's FIP case as the Claimant did not provide a good cause reason as to why they failed to participate in their assigned activities.

DECISION AND ORDER

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

1. The Department properly terminated 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 D. Corrigan, Director
Department of Human Services

Date Signed: October 15, 2012

Date Mailed: October 15, 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.

CAA/las

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