

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-10953
Issue No: 1038
Case No: [REDACTED]
Hearing Date: December 14, 2011
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 received on November 4, 2011. After due notice, a telephone hearing was held on December 14, 2011. Participants on behalf of Claimant included [REDACTED] Michigan. Participants on behalf of Department of Human Services (Department) included [REDACTED] Case Manager; [REDACTED], JET Program Manager and [REDACTED], JET Case Manager.

ISSUE

Whether the department properly terminated and sanctioned Claimant's 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. Claimant was a mandatory WF/JET participant and she signed a contract with JET on August 22, 2011. (Department Exhibits 11 & 14).
2. As part of her participation in the WF/JET program, Claimant was required to attend JET appointments and deliver to the JET office 40 hours of job search activities per week. Claimant was advised that termination could result if she has at least 3 absences or 3 strikes (a missed assignment is considered a strike). (Department Exhibits 1 & 14).
3. On September 7, 2011, Claimant failed to attend job club. (Department Exhibits 3 & 15).

4. On September 18, 2011, Claimant failed to turn in her job search logs. (Department Exhibits 3, 4 & 12).
5. On September 25, 2011, Claimant did not turn in her job search logs. (Department Exhibit 4 & 12).
6. On September 29, 2011, Claimant presented to the JET office and indicated that she would not be able to attend the [REDACTED] (NRF) training workshop because her child was ill. Claimant was provided with a gas card at the time. (Department Exhibit 15).
7. Claimant took her child to the emergency room at [REDACTED] [REDACTED] care for a head injury on September 29, 2011 at 9:53 a.m. (Claimant's Exhibit 1).
8. Claimant failed to show up for National Retail Foundation (NRF) training on September 30, 2011. (Department Exhibits 1 & 15).
9. On October 2, 2011, Claimant did not turn in her job search logs. (Department Exhibit 1 & 12).
10. On October 19, 2011, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) because she failed to participate as required in employment and/or self-sufficiency related activities. The Department informed Claimant that she was scheduled for a Triage appointment on October 25, 2011 at 1:00p.m., to demonstrate good cause for noncompliance. The deadline for Claimant to show good cause was October 31, 2011. The notice indicated that failure to show good cause could result in loss of benefits. (Department Exhibit 4).
11. On October 25, 2011, Claimant attended Triage and stated that she did not fully understand her requirements for the JET program. The Department found Claimant did not show good cause for her noncompliance. (Department Exhibit 1).
12. The Department mailed Claimant a Notice of Case Action (DHS-1605) on October 25, 2011, closing Claimant's FIP benefits for 3 months effective December 1, 2011, due to her failure to participate in employment and/or self-sufficiency related activities. (Department Exhibits 6-7).
13. Claimant submitted a hearing request on November 4, 2011, protesting the closure of her FIP benefits. (Request for Hearing).
14. This is Claimant's first non-compliance with the WF/JET program.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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), Reference Table Manual (RFT), 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 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 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).
- .. 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. BEM 233A.

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. BEM 233A. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines. BEM 233A.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. BEM 233A. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. BEM

233A. Clients must comply with triage requirement within the negative action period. BEM 233A.

The department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A.

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. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A. Good cause should be determined 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. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply: (1) for the first occurrence on the FIP case, close the FIP for not less than 3 calendar months unless the client is excused from the noncompliance as noted in "First Case Noncompliance Without Loss of Benefits" below; (2) for the second occurrence on the FIP case, close the FIP for not less than 3 calendar months; (3) for the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months. The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. BEM 233A.

This Administrative Law Judge finds that the Claimant had at least 3 strikes against her between September 1, 2011 and the end of October, 2011. These violations or strikes, if you will, occurred on September 7, 18, 25, respectively, as well as on October 2, 2011. This Administrative Law Judge finds that Claimant's failure to attend the NRF training workshop is excused because her son required emergency medical treatment at the time. However, Claimant admitted during the hearing that she did not turn in her required 40 hours of job search activity because she didn't fully understand the JET requirements. The JET requirements were set forth in the documents Claimant signed and the information was relayed to Claimant verbally.

Claimant, for the first time at the hearing, submitted her job search activity reports from September, 2011, in an attempt to show that she met her 40 hour job search requirements. But Claimant was clearly instructed to conduct the 40 hours of requisite job search **and** turn in the documentation on a weekly basis. (See Department Exhibit 14). There is no dispute that Claimant failed to timely turn in her weekly job search

activity. Claimant failed to turn in the weekly job search activity at Triage on October 25, 2011 and she failed to submit them by the extended deadline of October 31, 2011.

Accordingly, this Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for failing to complete her attendance and job search activities. As a result, the department properly closed Claimant's FIP case for non-compliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly closed Claimant's FIP case for noncompliance with WF/JET requirements and the 3 (three) month sanction is AFFIRMED.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed:12/16/11

Date Mailed:12/16/11

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.

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

CAP/ds

