

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201217062
Issue No: 1038
Case No: [REDACTED]
Hearing Date: January 12, 2012
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on November 21, 2011. After due notice, a telephone hearing was held on Thursday, January 12, 2012.

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program?

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 was an ongoing Family Independence Program (FIP) recipient until December 1, 2011.
2. The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits.
3. On October 26, 2011, the Department received correspondence from the Claimant that indicated her residence had changed from a rescue mission to her current location.
4. The Claimant was noncompliant with the JET program on October 29, 2011, when the Department determined that a portion of her community service logs had been falsified.
5. The Department conducted a triage meeting on November 15, 2011, and the Claimant did not attend this meeting.
6. On November 16, 2011, the Department notified the Claimant that it would sanction her FIP benefits as of December 1, 2011.

7. The Department received the Claimant's request for a hearing on November 21, 2011, protesting the sanctioning of her FIP benefits.

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, 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 DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be 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 Labor and Economic Growth (DLEG) 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.

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:

- 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.
- For the second occurrence on the FIP case, close the FIP for not less than 3 calendar months.
- 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, Item 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP(SEE BEM 233A) may affect FAP if both programs were active on the date of the FIP noncompliance. BEM 233b. The FAP group member should be disqualified for noncompliance when all the following exist:

- The client was active both FIP and FAP on the date of the FIP noncompliance, and
- The client did not comply with FIP/RAP employment requirements, and
- The client is subject to a penalty on the FIP/RAP program, and
- The client is not deferred from FAP work requirements, and
- The client did not have good cause for the noncompliance. BEM 233B.

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

The Claimant was an ongoing Family Independence Program (FIP) recipient until December 1, 2011, and the Department had referred her to the JET program as a condition of receiving FIP benefits. The Claimant was noncompliant with the JET program when the Department determined that a portion of her community service logs had been falsified. The Department suspected that the logs had been falsified following a collateral contact with the community service organization. The Department conducted a triage meeting on November 15, 2011, where the Claimant was given the opportunity to establish good cause for noncompliance with the JET program. The Claimant did not attend the triage meeting and the Department did not find good cause. On November 16, 2011, the Department notified the Claimant that it would sanction her FIP benefits as of December 1, 2011.

The Claimant argued that her community service logs had not been falsified. The Claimant argued that she would have been able to prove this to the Department if she had the opportunity to attend the triage meeting. The Claimant testified that she did not receive timely notice of the triage meeting.

The Department's representative testified that the Claimant submitted a change of address that was received by the Department on October 26, 2011, but that this change was not entered into the Department's computer system until later. The Department had information in its possession to provide the Claimant with timely notice of the triage meeting, which was sent to her former address. The Department failed to establish that the Claimant received timely notice of the triage meeting. Furthermore, the Department was aware that the Claimant was residing at a rescue mission, and that her housing situation was likely unstable.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, this Administrative Law Judge finds that the Claimant did rebut the presumption of receipt and that she did not receive timely notice of the triage meeting.

Although the Department's caseworkers may have had reason to suspect the validity of a signature on the Claimant's JET assignment log, they are not qualified to identify a forged signature. The record is insufficient to determine whether the Claimant falsified her community service logs because the best evidence available is based on the hearsay statements of individuals not available to testify during the hearing. This Administrative Law Judge finds that the best manner of determining whether the Claimant's assignment log was falsified was during the triage meeting. The Claimant would have been required to bring evidence that she did not falsify her assignment logs, but in this case she was unable to attend the meeting when she did not receive timely notice.

This Administrative Law Judge finds that the Department failed to establish that the Claimant was noncompliant with the JET program without good cause. Therefore, the Department failed to establish that it properly sanctioned the Claimant's FIP benefits for noncompliance with the JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program.

Accordingly, the Department's Family Independence Program (FIP) sanction is **REVERSED**. It is further ORDERED that the Department shall:

1. Schedule a triage meeting in accordance with Department policy to determine whether the Claimant was noncompliant with the JET program without good cause.
2. Initiate a redetermination of the Claimant's eligibility for the Family Independence Program (FIP) based on the results of this triage meeting.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

The Department's FIP sanction is **AFFIRMED**. It is SO ORDERED.

/s/
Kevin Scully
Administrative Law Judge
Michigan Administrative Hearing System
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 23, 2012

Date Mailed: January 23, 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 60 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

KS/tb

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