

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-45436
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 9, 2012
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 May 9, 2012, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close claimant's Family Independence Program (FIP) case and sanction claimant for 3 months for Jobs, Education and Training (JET) program noncompliance?

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 FIP recipient in Wayne County.
2. Claimant was a mandatory JET participant.
3. Claimant allegedly did not meet participation requirements.
4. Claimant stopped attending JET on November 10, 2011, and did not return.
5. Claimant alleged that she had stopped attending due to medical reasons.

6. Claimant turned in a doctor's note on November 10, 2011, to prove that she could not attend JET.
7. Claimant's doctor's note was not dated.
8. The note stated that Claimant needed to be out from JET "indefinitely."
9. Claimant was informed that this note was not enough and needed to provide something more specific.
10. Claimant did not return additional documentation.
11. Claimant was referred to triage after failing to return documentation or return to JET, and a triage was held on March, 26, 2012.
12. Claimant did not attend the triage.
13. A triage was properly held, and Claimant was deemed noncompliant.
14. Claimant alerted the Department as to why she missed the triage, and the Department gave her until the date of negative action to return documentation of good cause.
15. Claimant gave to her case worker the exact same note that had earlier been deemed insufficient.
16. The Department affirmed its prior triage decision and held Claimant noncompliant.
17. This was Claimant's first incident of noncompliance.
18. Claimant's FIP case was immediately sanctioned for 90 days, and was placed into closure on April 10, 2012.
19. On April 4, 2012, Claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

All FIP and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the JET Program, or other employment service provider, unless deferred or engaged in activities that meet participation requirements. Clients who have not been granted a deferral must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1. This is commonly called “noncompliance.” BEM 233A defines noncompliance as failing or refusing to, without good cause:

“... appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider....” BEM 233A pg. 1.

However, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for failing to participate with employment and/or self-sufficiency-

related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance is FIP closure. BEM 233A.

Furthermore, JET participants cannot be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. At these triage meetings, good cause is 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 the Department or MWA. BEM 233A. If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

After reviewing the facts of the case, the undersigned holds that the Department has properly shown that Claimant was non-participatory. JET case notes show that Claimant stopped attending JET and did not return. This was confirmed by Department testimony, and Claimant did not rebut this testimony.

Furthermore, the Administrative Law Judge agrees with the Department’s contention that the note in question, which purported to show why Claimant could not attend JET, was insufficient to document illness and could not be used to document good cause.

While the Department argued that the note needed to provide a specific time frame, the Administrative Law Judge believes that there was a time frame, and that time frame was indefinite. Due to the nature of the illnesses listed, an indefinite time frame was reasonable, and the undersigned does not believe that the Department has the power to override that medical opinion and ask for more specificity.

However, the Department was correct in asking that the note be dated, which it was not. The fact that it was undated brings up problems, mainly that the note could have been old and no longer relevant. If the note was dated, the undersigned would have no problem awarding good cause; however, the lack of a date on the note makes for a vagueness as to the time frame to which the indefinite prognosis could refer. The Department was in its right to disregard the note in question.

Finally, the Department properly held the triage to the letter of BEM 233A. Good cause was discussed, the file was reviewed, and a no good cause determination was properly made. When Claimant later contacted the Department and explained why she could not make the triage, the Department allowed Claimant time to submit additional documentation. Even though Claimant knew that the Department needed additional information, and even though Claimant had been told at least twice before that the note in question was not adequate, Claimant submitted the same note. Understandably, the Department did not change its decision, as this note was already in the file.

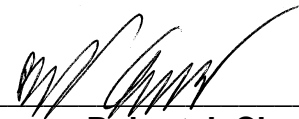
Therefore, the Department has met its burden in proving its case. It has shown that Claimant was non-participatory with JET. It showed that Claimant did not meet the standards of good cause. It showed that a triage was properly held and that Claimant was given an adequate chance to submit documentation of good cause.

While Claimant may have, indeed, been too ill to attend JET during the time period in question, the fact remains that Claimant has failed to submit adequate proof of that fact, despite prompting by the Department. BEM 233A states that a claimant must submit proof of good cause, and the Administrative Law Judge agrees that proof up to the current point in time has been lacking. Therefore, because Claimant has failed to prove that she had good cause and failed to submit evidence of good cause to the Department before the date of negative action, the Administrative Law Judge holds that the Department was correct to find Claimant in noncompliance, and correct to impose the sanction prescribed for a first penalty.

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 did act properly when closing Claimant's case and applying the sanction in question. Claimant was not in compliance with the JET program during the time period in question and did not provide proof of good cause.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 16, 2012

Date Mailed: May 16, 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. (60 days for FAP cases)

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.

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.

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

RJC/pf

cc:

