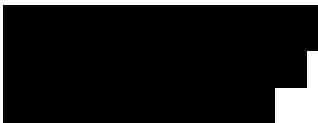


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 2012-45440  
Issue No.: 1005  
Case No.: [REDACTED]  
Hearing Date: May 10, 2012  
County: Calhoun

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 April 9, 2012. After due notice, a telephone hearing was held on May 10, 2012. Claimant personally appeared and provided testimony.

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. (Hearing Summary).
2. On January 4, 2012, Claimant was mailed a Work Participation Program Appointment Notice informing her of her 9AM, January 17, 2012, appointment with the work participation program. (Department Exhibit 7).
3. On January 19, 2012, Claimant informed the department that she was unable to work and was provided with a Medical Needs – Jet form (DHS-54E), to be completed by her doctor and returned to the department by January 25, 2012. (Hearing Summary).
4. On January 25, 2012, Claimant timely returned the completed Medical Needs – Jet form to the department. However, the form was signed by a Physician's Assistant, and per the instructions on page 1 of the form, the

form had to be signed by an MD/DO/FLP or PhD. Claimant was informed that this was not acceptable and Claimant stated she would get the form corrected. This was never done. (Hearing Summary).

5. On February 2, 2012, Claimant was referred to Triage. The department mailed Claimant a Notice of Noncompliance because she failed to return a properly completed Medical Needs form excusing her from attending JET. The department informed Claimant that she was scheduled for a Triage appointment on February 14, 2012, to demonstrate good cause for noncompliance. The notice explained that failure to show good cause could result in loss of benefits. (Department Exhibits 9-10).
6. On February 6, 2012, Claimant called her DHS worker and requested that the worker fax the Medical Needs form to her doctor. Per Claimant's request, the DHS worker faxed the Medical Needs form to Claimant's doctor. (Department Exhibit 3; Hearing Summary).
7. On February 14, 2012, Claimant failed to attend the Triage. The DHS worker spoke with Claimant over the phone and explained to her that she needed to have the Medical Needs form completed by a doctor. At Claimant's request, the DHS worker faxed a second Medical Needs form to Claimant's doctor on February 16, 2012. (Department Exhibits 11).
8. On March 5, 2012, the department mailed Claimant a Notice of Case Action informing Claimant that her FIP program was being closed as of April 1, 2011, because she failed to participate in employment and/or self-sufficiency related activities, and her FAP was being reduced as of April 1, 2012, because she failed to participate in an employment related activity. (Department Exhibits 14-17).
9. Claimant submitted an untimely hearing request on April 9, 2012, protesting the closure of her FIP benefits and decrease in her FAP benefits. (Request for a Hearing).
10. This is Claimant's third non-compliance with the FIP program. (Department Exhibits 12-17).

#### 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, Mich Admin Code, Rules 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. Admin Code, Rule 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 Reference Tables Manual (RFT).

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 RAPC group to participate in the work participation program or other employment-related activity 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 employment. Apply FIP policy to RAPC cash clients. The work participation program is administered by the Workforce Development Agency, State of Michigan (WDASOM) through the Michigan one-stop service centers. The work participation program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. The work participation program case managers use the One-Stop Management Information System also known as the OSMIS to record the clients' assigned activities and participation. In this item the OSMIS is referred to as the Management Information System (MIS). WEIs not referred to the work participation program will participate in other activities to overcome barriers so they may eventually be referred to the work participation program or other employment service provider. DHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP). 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. The department coordinates the 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, the client is offered a telephone conference at that time. Clients must comply with triage requirement within the negative action period.

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 EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count. BEM 233A.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations when a Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause, or a Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause. At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP. BEM 233B.

The department disqualifies a FAP group member 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 (see DEFERRALS in BEM 230B), **and**
- The client did not have good cause for the noncompliance. BEM 233B.

In this case, Claimant was required to participate in the Jobs Education and Training/Work First (JET/WF) program as a condition of receiving her FIP. Claimant failed to attend Work Participation on January 17, 2012, and was referred to Triage on February 2, 2012. Claimant failed to attend the scheduled Triage on February 14, 2012. Based on the information available at the Triage, the department found that Claimant was noncompliant for not submitting a properly completed Medical Needs form on January 25, 2012.

Claimant testified that she should not be held accountable for what her doctor's office does or does not do. Claimant testified that every time she dropped off the Medical Needs form or called the doctor's office reference having a doctor sign the Medical Needs form, they always told her that they would fax it to the department but they never did. Claimant stated that she cannot be held responsible for something she has no control over.

In this case, Claimant submitted the Medical Needs form timely on January 25, 2012. However, because it was signed by a physician's assistant, and not a doctor as explained on the face of the form, the department could not accept the form as a valid deferral. Claimant testified she dropped off another Medical Needs form and called to follow-up with the doctor's office asking that they have a doctor sign it and fax it back to the department. At the Claimant's request, the department also faxed two Medical Needs forms to the doctor's office with no response. As a result, the department had no reliable evidence that Claimant was medically deferred from attending JET, and her failure to attend the January 17, 2012, JET appointment, without more, remained unexcused for no good cause.

The 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 return the properly completed Medical Needs form. As a result, the department properly closed Claimant's FIP case for non-compliance. Because Claimant was an active participant in the FAP program at the time of her FIP non-compliance, Claimant's FAP benefits were also properly reduced because she was removed from the FAP group.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly reduced Claimant's FAP benefits when the department properly closed Claimant's FIP case for noncompliance with WF/JET requirements and the lifetime sanction is AFFIRMED.

It is SO ORDERED.

/s/ \_\_\_\_\_  
Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 6/1/12

Date Mailed: 6/1/12

**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.

VLA/ds

