

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

IN THE MATTER OF:



Reg. No.: 2012-47292
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 21, 2012
County: Wayne (82-19)

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 in-person hearing was held on June 21, 2012, from Inkster, 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 6 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 did not turn in participation logs that proved she met participation requirements.

5. Claimant was given chances to turn in the participation log to JET before being referred to triage.
6. On February 20, 2012, claimant attended JET but did not turn in any participation logs; claimant was instructed to turn in participation logs on February 24, 2012.
7. Claimant did not turn in the logs on February 24, 2012.
8. Claimant agreed to attend JET on March 2, 2012, to turn in the participation logs.
9. Claimant did not turn in the participation logs on that date.
10. On March 5, 2012, claimant was sent a reengagement letter by JET officials, scheduling a meeting for March 12, 2012, to turn in the participation logs.
11. Claimant did not attend or turn in the participation logs on that date.
12. A triage was scheduled for April 11, 2012, and was properly noticed.
13. Claimant contacted JET on April 3, 2012, but did not turn in any participation logs.
14. The triage was held on April 11, 2012; claimant failed to turn in the participation logs at that time.
15. The Department found claimant to have no good cause for non-participation and found claimant in noncompliance.
16. Claimant's case was sanctioned for 6 months and placed into negative action.
17. Claimant requested a hearing on April 16, 2012.
18. On June 21, 2012, a hearing was held before the Administrative Law Judge.
19. Claimant provided evidence at the hearing that she met participation requirements and submitted the logs in question as evidence.
20. Claimant understood the reporting requirements for JET.

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 DHS 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. Claimant willfully and repeatedly refused to turn in the participation logs required by JET to show compliance with work-related activities. The evidence in the file and elicited at the hearing shows that claimant failed to turn in participation logs to JET or the Department on several occasions: a February 20, 2012, office visit; a March 2, 2012, scheduled appointment which claimant failed to attend; a March 12, 2012, appointment which claimant failed to attend; and the April 11 triage itself.

While claimant submitted these logs at the hearing, the evidence shows that claimant repeatedly failed to submit these logs to the Department and JET. While claimant argued at hearing that she had faxed the logs in at one point, claimant failed to provide evidence proving this fact. Additionally, claimant testified that she had not once attended JET after receiving the logs in question, due to transportation issues; however, the evidence shows that claimant clearly attended JET on February 20, 2012, when several of the logs in question were due. The Administrative Law Judge found claimant’s testimony contradictory and confused; he found the testimony to be less than credible.

Furthermore, claimant’s JET responsibilities go much further than simply attending assigned activities; claimant must turn in adequate documentation that these activities were attended. The undersigned is satisfied that the evidence records shows that claimant was aware of these requirements to report.

Therefore, even though the evidence shows that claimant attended activities, claimant failed to meet her obligation of following proper reporting requirements, despite being given several chances to do so. Had claimant turned in the logs in question at the triage, the Administrative Law Judge would have had no trouble finding in favor of claimant; claimant failed to do so.

Additionally, the Department appears to have provided a procedurally correct triage; a triage was properly noticed and held, and a determination of good cause was made using the evidence at hand.

Additionally, claimant failed to provide the Department proof of good cause. While claimant alleged that she had explained that she had transportation issues, claimant provided no evidence at the triage of this fact, nor did claimant even turn in the logs that were needed to show participation. As there was no proof of good cause, the Department could not have found good cause when it reviewed her case at triage.

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, which claimant failed to do; claimant failed to turn in evidence of participation, despite being given several chances.

At the end of the day, the Administrative Law Judge must rule as to whether the Department's action was correct at the time they took the action, using the information they had on hand. Claimant had failed to turn in any evidence of participation by the time the Department took their action. While claimant turned in evidence of participation at the hearing, this was not information that the Department had on hand at the time, and the Administrative Law Judge cannot fault the Department for failing to have this information, as it was withheld, several times, by the claimant.

The Department found claimant non-participatory, based upon the information at hand. This determination was correct at the time. The Department found claimant to have no good cause based on the information at the time. Therefore, the Administrative Law Judge must find that the Department committed no error when it made the decision in question.

Therefore, because claimant has failed to prove that she had good cause, and failed to submit evidence of participation 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.

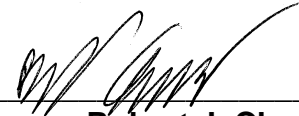
DECISION AND ORDER

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.

did not act properly when .

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: July 18, 2012

Date Mailed: July 18, 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.

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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

RJC/pf

cc:

