

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20125314  
Issue No: 1038  
Case No: [REDACTED]  
Hearing Date: November 16, 2011  
Kent County DHS

**ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT**

**HEARING DECISION**

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on November 16, 2011. The Claimant and Agency appeared by telephone and provided testimony.

**ISSUE**

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

**FINDINGS OF FACT**

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. On July 11, 2011, Claimant attended JET orientation and was assigned to Jet worker [REDACTED].
2. On September 14, 2011, Claimant participated in a triage with [REDACTED] and [REDACTED]. The triage was scheduled as a result of the Claimant's noncompliance with WF/JET activities. As a result of the triage, the Claimant agreed to sign a 754 where by she agreed she was noncompliant with WF/JET and agreed to be fully compliant with WF/JET between September 15, 2011 and September 23, 2011. (Department Exhibits 5, 6, 7).
3. On September 15, 2011, Claimant returned to WF/JET and talked to [REDACTED] from the Women's Resource Center. [REDACTED] told the Claimant she was required to attend JET intake daily between the hours of 1 pm and 3 pm to turn in her job search forms. (Department Exhibit 3).

4. On September 21, 2011 and September 22, 2011, the Claimant did not call in or show up for JET intake as required by WF/JET.
5. On September 26, 2011, the Department sent the Claimant a Notice of Case Action. The Notice indicated the Department was closing the Claimant's FIP benefits for failing to participate in WF/JET on September 21, 2011 and September 22, 2011 as required by the 457.
6. On September 30, 2011, the Claimant filed a request for hearing protesting the September 26, 2011 Notice of Case Action.
7. On November 1, 2011, the Department closed the Claimant's FIP case.

### **CONCLUSIONS OF LAW**

The 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 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) and the Program Reference Manual (PRM).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. BEM 233A, p. 1.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. 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) or PRPFC.
- .. Appear for a scheduled appointment or meeting related to assigned activities.
- .. Provide legitimate documentation of work participation.
- .. 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, pp. 1-2.

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. Document the good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

**Good cause includes the following:**

- . The person is working at least 40 hours per week on average and earning at least state minimum wage.
- . The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information. This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance.

The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

Defer persons incapacitated due to injury, physical illness or mental illness. Verify a reason for deferral only if it is not obvious and the information provided is questionable (unclear, inconsistent or incomplete).

Sources that may be used to verify questionable information are:

- SSI/RSDI/MA approval or receipt based on disability or blindness. For SSI and RSDI, use one of the sources referenced in FIP policy, Care of Disabled Spouse or Disabled Child in BEM 230A.
- An evaluation signed by a fully licensed psychologist that the client has an IQ of 59 or less.
- Statement from an MD/DO that the person is unable to work. Any medical evidence submitted by a Physician's Assistant must be cosigned by an MD/DO.
- The DHS-54A, Medical Needs; DHS-49, Medical Examination Report; DHS-49-D, Psychiatric/Psychological

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 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 3 calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- . The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

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. Locally coordinate a 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, offer a phone conference at that time. Clients must comply with triage requirement within the negative action period.

Determine good cause 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.

If the FIS, JET case manager, or MRS counselor do not agree as to whether “good cause” exists for a noncompliance, the case must be forwarded to the immediate supervisors of each party involved to reach an agreement.

DHS must be involved with all triage appointment/phone calls due to program requirements, documentation and tracking.

**Note:** Clients not participating with JET must be scheduled for a “triage” meeting between the FIS and the client. This does not include applicants. BEM 233A, p. 7.

If the client establishes good cause within the negative action period, do NOT impose a penalty. See “Good Cause for Noncompliance” earlier in this item. Send the client back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. Do not enter a new referral on ASSIST. Enter the good cause reason on the DHS-71 and on the FSSP under the “Participation and Compliance” tab.

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. BEM 233A, pp. 10-11.

Disqualify a FAP group member for noncompliance when:

- . The client was active both FIP and FAP on the date of the FIP noncompliance, and
- . The client did not comply with FIP employment requirements, 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, p. 1.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A.

Based on the testimony and exhibits presented during the hearing, I find the Department witnesses' to be slightly more credible than the Claimant as the Department witnesses' had a clearer grasp of the dates, times and events in question. Therefore, I find the expectations of WF/JET were clearly explained to the Claimant and it was communicated that her attendance was required on a daily basis. Because the Claimant did not attend the required activities on September 21, 2011 and September 22, 2011 as required and because the Claimant lacked a good cause explanation as to why she was not in attendance, I find the Department acted in accordance with the applicable laws and policy in this case. Therefore, I affirm the Department's actions in this matter.

### DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department properly terminated and sanctioned the Claimant's FIP benefits for noncompliance with WF/JET requirements.

Accordingly, the Department's actions are **AFFIRMED**.

/s/  
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Corey A. Arendt  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: November 17, 2011

Date Mailed: November 18, 2011

**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.

CAA/cr

cc:

