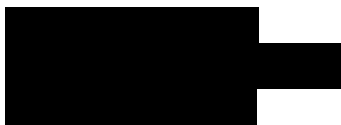


**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**



Reg. No: 201259768  
Issue No: 1038  
Case No: [REDACTED]  
Hearing Date: July 26, 2012  
Genesee County DHS

**ADMINISTRATIVE LAW JUDGE:** Gary F. Heisler

**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. After due notice, a hearing was held on July 26, 2012. Claimant appeared and testified.

**ISSUE**

Did the Department of Human Services properly deny Claimant's Family Independence Program (FIP) application for failure to participate in employment and/or self-sufficiency related activities?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On May 22, 2012, Claimant was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) which required her to attend on June 6, 2012. Claimant was sent the notice from Lansing because she was part of the class whose Family Independence Program (FIP) cases were closed based on the 60 month federal time limit. If Claimant submitted her TC60 application by June 11, 2012 and met all other eligibility criteria, she would be eligible to receive retroactive FIP benefits back to March 28, 2012. One of those requirements was to attend Michigan Works Agency/Jobs Education and Training Program (JET). Claimant's last day to attend JET under the May 22, 2012 notice was June 12, 2012.
2. On June 6, 2012, Claimant did not attend JET.
3. On June 8, 2012, Claimant spoke with her DHS case worker and was told she (Claimant) could get a new Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) if she came into the DHS office before 3:30 pm. Claimant did not come to the DHS office until after 4:00 PM.

4. On June 11, 2012, Claimant came into the DHS office and was given a new Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) which stated she was required to attend on June 18, 2012.
5. On June 15, 2012, Claimant was informed that her TC60 FIP application was going to be denied because she did not attend JET by June 12, 2012.
6. On June 18, 2012, Claimant was informed that DHS workers were not allowed to extend the dates to attend JET because the TC60 applications were being handled by a special section in Lansing. Claimant was informed she could apply for FIP through the local DHS office but she would only receive benefits from the date of application. Claimant submitted a request for hearing.

### **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) and the Program Reference Manual (PRM).

None of the facts in this case are disputed. The Department case worker who gave Claimant the extension for attending JET was present at the hearing and testified that she had unknowingly informed Claimant that the date to attend JET could be extended. The TC60 applications and eligibility for retroactive FIP benefits are a unique, one time circumstance which occurred due to legal action brought as a class action lawsuit in Michigan's Judicial Branch of government. No policy was promulgated with direction about the TC60 applications. On June 18, 2012, an Email clarification was issued within DHS regarding the TC60 cases. That Email is page 17 in this hearing record. The clarification states that if the client misses the 20 day window to attend JET in accordance with the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) sent out from Lansing their TC60 application will be denied. The Email also states that the client cannot be given another Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) to attend at a latter date. This Email clarification is the only source of guidance available on TC60 applications.

The facts in this case do not establish that Claimant had no notice of the requirement to attend JET by June 12, 2012. It is not disputed that Claimant did not attend JET on June 6, 2012 as directed in the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The Email clarification issued regarding TC60 applications is consistent with existing Department policy on the impact that noncompliance with employment and/or self-sufficiency related activities will have on a pending application.

**BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR SELFSUFFICIENCY-RELATED REQUIREMENTS: FIP DEPARTMENT PHILOSOPHY FIP**

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.

**NONCOMPLIANCE PENALTIES AT APPLICATION**

Noncompliance by a WEI while the application is pending results in group ineligibility.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening.

The Claimant's issue centers on information/direction provided to her by a Department worker after Claimant had failed to attend JET on June 6, 2012 as directed in the May 22, 2012 Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). Claimant seeks a decision that her TC60 application should not be denied. The Department's determination to deny the TC60 application is consistent with the existing policy cited above and indicates no consideration is given to the reason for the noncompliance while an application is pending. The remedy Claimant seeks is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's Family Independence Program (FIP) application for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.

/s/ \_\_\_\_\_  
Gary F. Heisler  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: August 2, 2012

Date Mailed: August 2, 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 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.

KS/tb

cc:

