

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201262603
Issue No: 1038
Case No: [REDACTED]
Hearing Date: August 14, 2012
Washtenaw 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 14, 2012. Claimant and his [REDACTED] appeared and testified. The request for hearing package which Claimant submitted in this case included a Notice of Non-Compliance (DHS-2444) dated June 21, 2012. That notice went out after the June 12, 2012 Notice of Case Action (DHS-1605) which contains the Departmental action at issue in this hearing. This hearing does not address any action by the Department associated with the June 21, 2012 Notice of Non-Compliance (DHS-2444).

ISSUE

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

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 ongoing recipient of Family Independence Program (FIP) benefits. His benefit group consists of himself and [REDACTED], his [REDACTED].
2. On May 9, 2012, a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) was sent for [REDACTED]. The notice stated that Claimant was required to attend the Work First/Jobs Education and Training Program on May 21, 2012.
3. On May 21, 2012, [REDACTED] did not attend JET.
4. On June 4, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for June 12, 2012.

5. On June 12, 2012, neither Claimant nor [REDACTED] attended the scheduled meeting. The Department determined there was no good cause for Ms. Hussein's failure to participate in employment and/or self-sufficiency related activities. Claimant was sent Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) would be sanctioned.
6. On June 28, 2012, Claimant submitted a request for hearing. Claimant also submitted: a Medical Needs Form (DHS-54a) on himself from January 18, 2012; an April 4, 2012 handwritten note from a [REDACTED] excusing [REDACTED] from work responsibilities on April 4 & 5, 2012; a Medical Needs Form (DHS-54a) on [REDACTED] signed on April 17, 2012 by a [REDACTED] stating she had been hospitalized for [REDACTED] and could not work because she was at risk for a [REDACTED] h; and a birth verification stating [REDACTED] had delivered the [REDACTED] on [REDACTED].

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR SELF-SUFFICIENCY 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 may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY FIP

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care and disqualified aliens), see

[BEM 228](#), who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three or 12 months.

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](#).

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED ACTIVITIES

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: Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- 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).
 - Comply with activities assigned on the 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.

GOOD CAUSE FOR NONCOMPLIANCE

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 add(s) and recipients.

Good cause includes the following:

Illness or Injury

The client has a debilitating illness or injury, or a spouse or child's illness or injury requires in-home care by the client.

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to, the following:

- Domestic violence.
- Health or safety risk.
- Religion.
- Homelessness.
- Jail.
- Hospitalization.

██████████ does not dispute her failure to attend JET or the scheduled triage meeting. Claimant and ██████████ assert good cause based on ██████████ medical condition regarding the ██████████ y and the ██████████ of the ██████████.

The April 17, 2012 Medical Needs Form (DHS-54a) was signed by a ██████████ ██████████, not a ██████████. Neither party gave evidence on whether the Medical Needs Form (DHS-54a) was submitted before June 28, 2012. The Medical Needs Form (DHS-54a) stated that ██████████ expected ██████████ was ██████████ and that she was unable to work due to being hospitalized for preterm labor and being at high risk for a ██████████. ██████████ delivered the ██████████ on ██████████, 25 days before her ██████████.

The evidence that ██████████ delivered the ██████████ on ██████████, the day before the scheduled triage meeting, is good cause for not attending the triage meeting. There is room to dispute the sufficiency of the April 17, 2012 Medical Needs Form (DHS-54a) due to it being signed by a ██████████ instead of a ██████████ as well as the issue of when the form was first submitted. However, the early ██████████ and the medical knowledge of a ██████████ constitute credible evidence that ██████████ ██████████ was tenuous at the time she was required to attend JET.

The evidence presented at this hearing is sufficient to establish that [REDACTED] had good cause for her failure to attend JET on May 30, 2012 or the triage meeting on June 12, 2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law finds that the Department DID NOT properly sanction Claimant's Family Independence Program (FIP) case 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 REVERSED.

It is further ORDERED that Claimant's Family Independence Program (FIP) case be reinstated and any benefits missed because of this incorrect action be supplemented.

/s/
Gary F. Heisler
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: August 27, 2012

Date Mailed: August 27, 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.

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.

GFH/tb

cc:

[REDACTED]