

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

IN THE MATTER OF:



Reg. No: 201264430
Issue No: 1038, 3029
Case No: [REDACTED]
Hearing Date: August 28, 2012
Kalamazoo 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 28, 2012. Claimant appeared and testified.

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. On April 18, 2012, Claimant submitted an application for Family Independence Program (FIP) benefits. Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits. Claimant was referred to participate in the Michigan Works Agency/Jobs Education and Training Program (JET).
2. On April 30, 2012, Claimant began her JET participation. It was established that Claimant had a 30 hour per week participation requirement. Claimant signed her Contract with JET and the Jet Participation Guidelines.
3. For the week beginning April 29, 2012, Claimant only completed 16 hours of JET participation.
4. For the week beginning May 6, 2012, Claimant only completed 4 hours of JET participation.

5. For the week beginning May 13, 2012, Claimant completed 0 hours of JET participation. Claimant also failed to attend a scheduled class on May 18, 2012.
6. For the week beginning May 20, 2012, Claimant only completed 2 hours of JET participation.
7. For the week beginning May 27, 2012, Claimant only completed 10 hours of JET participation. Claimant also failed to attend a scheduled meeting on May 29, 2012.
8. For the week beginning June 3, 2012, Claimant only completed 2 hours of JET participation. Claimant also failed to attend scheduled meetings on June 5 & 8, 2012.
9. On June 13, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a triage meeting for June 28, 2012.
10. On June 28, 2012, Claimant attended the scheduled meeting. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities. Claimant was sent Notice of Case Action (DHS-1605) stating that her Family Independence Program (FIP) and Food Assistance Program (FAP) cases would be sanctioned.
11. On July 6, 2012, Claimant submitted a request for hearing. Claimant also submitted a Medical Needs Form (DHS-54a) signed by a [REDACTED] which stated Claimant could work with limitations.
12. At this hearing Claimant submitted 16 pages which show medical appointments Claimant went to.

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.

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 1997 AACRS R 400.3001-3015.

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.

**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 months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

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:

- Failing or refusing to:
 - Appear and participate with the work participation program or other employment service provider.

- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.

Note: The specialist should clear any alerts in Bridges relating to rejected work participation program referrals and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

- Develop a FSSP.

Note: A FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion.

- 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.
 - Participate in required activity.
 - 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.

Exception: Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

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

If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to the work participation program. There is no need for a new work participation program referral.

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP CASES AND MEMBER ADDS

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.

Individual Penalty Counter

Bridges applies noncooperation penalties at an individual level. Two parent families will have two individual penalty counters. The FIP EDG penalty is applied based on the individual with the highest penalty counter.

TRIAGE

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.

BEM 233B FAILURE TO MEET EMPLOYMENT REQUIREMENTS: FAP DEPARTMENT PHILOSOPHY

DHS requires participation in employment and/or self-sufficiency related activities associated with the Family Independence Program (FIP) or Refugee Assistance Program (RAP). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for clients, who refuse to participate in FIP/RAP employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

DEPARTMENT POLICY

The policies in this item apply to all FAP applicants and recipients age 16 and over. Noncompliance, without good cause, with employment requirements for FIP/RAP (see BEM 233A) may affect FAP if **both** programs were active on the date of the FIP noncompliance.

Michigan's FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause.
- 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.

PROCESS FOR FIP/RAP ASSOCIATED NONCOMPLIANCE

When you learn that a client is noncompliant do the following:

- Send the DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days of the noncompliance. Check all programs that apply to the noncompliance (FIP/ RAP and/or RAP) and the related penalty count that applies to each as outlined on the form.
- Hold the triage appointment/phone conference and document the results in Bridges.

Note: If the client does not participate in the triage meeting, determine good cause for FAP based on information known at the time of the determination.

- Determine FAP good cause separately from the FIP/RAP based on FAP good cause reasons defined later in this item. If a good cause reason is selected for FIP/RAP it also applies to FAP. If the client does not meet one of the FIP/RAP good cause reasons in the drop down list, but does meet one of the FAP only good cause reasons, select the FAP only good cause reason to avoid client disqualification on FAP. Bridges makes both determinations simultaneously.

When To Disqualify

Disqualify 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.

Claimant does not dispute her failure to meet JET participation requirements but asserts good cause based on medical problems. Review of the evidence submitted by Claimant show: April 30, 2012 at 9:35 am Claimant went to [REDACTED] complaining of symptoms of a urinary tract infection; May 15, 2012 at 5:39 pm Claimant went to [REDACTED] complaining of right foot pain; May 21, 2012 at 12:00 pm Claimant went to [REDACTED] complaining of right foot pain; and May 30, 2012 at 12:35 pm Claimant went to [REDACTED] complaining of right foot pain. The June 28, 2012 Medical Needs Form (DHS-54a) Claimant submitted indicated she was able to work with lifting restrictions.

The evidence presented at this hearing is not sufficient to establish that Claimant had good cause for the 148 hours of participation she failed to complete between April 29 and June 10, 2012.

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 properly sanctioned Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) 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 Corrigan, Director
Department of Human Services

Date Signed: September 6, 2012

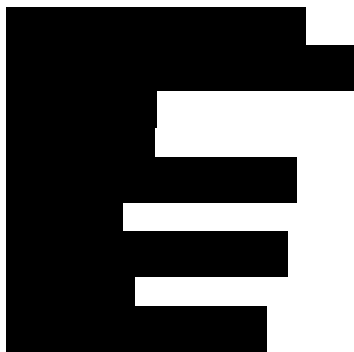
Date Mailed: September 7, 2012

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:


eisler
MAHS