

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201319367
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Eaton

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 February 14, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Jason Randolph, [REDACTED] acting as the Claimant's authorized hearings representative, and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], [REDACTED], [REDACTED]. This hearing was conducted along with another hearing (REG# 201321867) and the evidence from that hearing is incorporated into this decision by reference.

ISSUE

Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Family Independence Program (FIP) recipient until February 1, 2013.
2. The Medical Review Team (MRT) determined on November 15, 2012, that the Claimant is not disabled and is capable of participating in the JET program.
3. The Department referred the Claimant to the Jobs, Education, and Training (JET) program as a condition of receiving FIP benefits.

4. The Claimant was scheduled to begin participation in the JET program on December 17, 2012.
5. The Claimant was noncompliant with the JET program when he failed to attend or reschedule his JET program appointment by December 27, 2012.
6. The Department conducted a triage meeting on January 3, 2013.
7. On December 28, 2012, the Department notified the Claimant that it would sanction his FIP benefits as of February 1, 2013.
8. The Department received the Claimant's request for a hearing on December 26, 2012, protesting the sanctioning of his FIP benefits.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy states that clients must be made aware that public assistance is limited to 48 months to meet their family's needs and that they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be covered by the JET case manager when a mandatory JET participant is referred at application. Department of Human Services Bridges Eligibility Manual (BEM) 229 (December 1, 2011).

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stable employment. JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. Department of Human Services Bridges Eligibility Manual (BEM) 230A (December 1, 2011).

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).
 - 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. Department of Human Services Bridges Eligibility Manual (BEM) 233A (October 1, 2012).

The Department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A.

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. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A.

Good cause should be 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. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

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 not less than 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 not less than 3 calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for not less than 12 calendar months.
- The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties. BEM 233A.

Noncompliance, without good cause, with employment requirements for FIP/RAP may affect FAP if both programs were active on the date of the FIP noncompliance. Department of Human Services Bridges Eligibility Manual (BEM) 233B (October 1, 2012). The FAP group member should be disqualified 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, and
- The client did not have good cause for the noncompliance. BEM 233B.

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

The Claimant was an ongoing Family Independence Program (FIP) recipient until February 1, 2013, and the Department had referred him to the JET program as a condition of receiving FIP benefits. On November 15, 2012, the Medical Review Team (MRT) determined that the Claimant is not disabled and is capable of participating in the JET program. The Claimant was noncompliant with the JET program when he failed to attend or reschedule his JET program appointment by December 27, 2012. The Department conducted a triage meeting on January 3, 2013, where the Claimant was given the opportunity to establish good cause for noncompliance with the JET program. The Department did not find good cause and on December 28, 2012, the Department notified the Claimant that it would sanction his FIP benefits as of February 1, 2013.

The Claimant's representative argued that the Claimant should have been deferred from the JET program due to a brain injury. The Claimant's representative testified that the JET program is not capable of helping the Claimant because of his impairments. The Medical Review Team determined that the Claimant is not disabled and is capable of participating in the JET program. The Claimant did not request a reasonable accommodation that would have make participation in the JET program easier despite his impairments. The Claimant failed to attend the JET program activities he was scheduled to attend on December 17, 2012, and failed to attempt to reschedule the appointment.

The Claimant's representative argued that a lack of transportation was good cause barrier to the Claimant's participation in the JET program.

The Department may find good cause for noncompliance with the JET program where the client requested transportation services from the Department prior to case closure and reasonably priced transportation is not available to the client. BEM 233A.

The Department's representative testified that it was prepared to assist the Claimant overcome transportation, and that additional assistance would have been made available to the Claimant if he had attended his scheduled JET appointment.

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This Administrative Law Judge finds that the Claimant failed to establish good cause for his noncompliance due to a lack of transportation.

The Claimant's representative testified that the Claimant's criminal record is a barrier to his employment.

Department policy does not recognize a criminal record as a good cause barrier to participation in the JET program. BEM 233A.

Based on the evidence and testimony available during the hearing, the Department's determination that the Claimant did not have good cause for his noncompliance with the JET program is reasonable. The Department has established that it acted properly when it sanctioned the Claimant's FIP benefits for noncompliance with the JET program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program.

The Department's FIP sanction is **AFFIRMED**. It is SO ORDERED.

/s/

Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 20, 2013

Date Mailed: February 21, 2013

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:

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- 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.

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

KS/tb

cc:

