

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-23457
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 [REDACTED] [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED].

ISSUE

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) 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 or around September 10, 2012, the Claimant enrolled in WF/JET.
2. On November 14, 2012, the Claimant failed to show up for an assigned WF/JET assignment.
3. On November 19, 2012, the Claimant failed to show up for an assigned WF/JET assignment and failed to turn in a job search log.
4. On November 21, 2012, a triage was requested.
5. On December 18, 2012, the Department sent the Claimant a notice of noncompliance and a notice of case action. The notice of noncompliance indicated a triage was to take place on December 26, 2012. The notice of case action indicated the Claimant's FIP case was to be closed and her FAP benefits reduced due to noncompliance with the WF/JET program.

6. On December 26, 2012, a triage took place in the absence of the Claimant. Based on the triage, the Department determined the Claimant did not have good cause for failing to attend the assigned WF/JET appointments and did not have good cause for failing to turn in the job search log.
7. On January 3, 2013, the Claimant requested a hearing.
8. The Claimant has two prior FIP sanctions.

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.

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 in 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.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given to the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

I have carefully considered and weighed the testimony and other evidence in the record and find the Department's witness to be more credible than the Claimant as the Department witness had a clearer grasp of the dates, times and events in question. Furthermore, I found the Claimant's argument and recollection of facts unpersuasive in the absence of any supporting documentation, including but not limited to the phone records and documentation regarding the lack of transportation and health issues.

Accordingly, I find, based on the competent, material, and substantial evidence presented during the hearing, the department acted in accordance with policy in closing Claimant's FIP case.

Accordingly, I **AFFIRM** the Department's actions in this matter.

¹ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

DECISION AND ORDER

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

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

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

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

Date Signed: February 15, 2013

Date Mailed: February 15, 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:
 - 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

2013-23457/CAA

CAA/las

cc:

