

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-827
Issue No: 1038; 3029
Case No: [REDACTED]
Hearing Date: January 15, 2013
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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, an in-person hearing was held on January 15, 2013, at the DHS office in St. Joseph County. Claimant and his wife personally appeared and testified. Participants on behalf of Department of Human Services (Department) included Case Worker [REDACTED] [REDACTED] Case Manager [REDACTED] [REDACTED] and Program Analyst [REDACTED] [REDACTED].

ISSUE

Whether the department properly closed Claimant's Family Independence Program (FIP) and properly decreased Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant and his wife were mandatory WF/JET participants who had been on a deferral through July 31, 2012. (Hearing Summary).
2. On August 1, 2012, the department mailed Claimant a Work Participation Program Appointment Notice informing Claimant that he was to go to JET on 8/13/12 at 8:45AM. The Notice explained that all adult applicants of Family Independent Program (FIP) benefits must attend the work participation program within 20 days of the date of the notice and continue to participate in the work participation program as long as you receive FIP and ongoing FIP recipients who do not cooperate with meeting self-sufficiency goals may have their cases closed. (Department Exhibit 3).
3. On August 3, 2012, Claimant and his wife called the department. Claimant stated that he and his wife needed to be deferred from the JET

program because he had surgery on his foot and would not be able to get out of bed. He claimed that his wife had to be home to care for him because he was unable to do anything for himself and could not get out of bed to go to the bathroom. Claimant indicated that [REDACTED] [REDACTED] was the surgeon who would determine that he could not participate. (Department Exhibits 4).

4. On August 6, 2012, at Claimant's request, the department mailed a Medical Needs form to Claimant requesting [REDACTED] [REDACTED] complete the form. (Department Exhibits 5-6).
5. On August 16, 2012, the department mailed Claimant a Notice of Case Action indicating that the Medical Needs form for [REDACTED] [REDACTED] had not been returned and if the Medical Needs form was not returned by August 20, 2012, the case would be put into Triage status for non-compliance. The Notice instructed Claimant to contact his doctor immediately regarding the return of the DHS Medical Needs form. (Department Exhibit 7).
6. On August 22, 2012, Claimant went to JET and spoke with the JET case worker about what JET needed from his wife. The case worker felt Claimant was being aggressive and trying to intimidate her. The case worker explained that Claimant's wife was aware of what JET required from her. (Department Exhibit 9).
7. On August 25, 2012, the department mailed Claimant a Notice of Noncompliance indicating they had failed to attend JET on 8/23/12 and now had Triage on 9/6/12 at 1:30PM to give them an opportunity to report and verify their reasons for noncompliance. The Notice also indicated that they may lose FIP and FAP benefits. The Notice indicated this was a second noncompliance, however testimony during the hearing from the department indicated it was a first noncompliance. (Department Exhibits 10-11).
8. On August 25, 2012, the department mailed Claimant a Notice of Case Action indicating Claimant's FIP would close effective 10/1/12 and Claimant's FAP would be decreased to \$[REDACTED] per month effective 10/1/12. (Department Exhibits 15-21)
9. On September 4, 2012, the department received the faxed Medical Needs form from [REDACTED] [REDACTED] office indicating Claimant could work at any non-weight bearing job and that no one was needed in the home to care for him. (Department Exhibits 12-13).
10. On September 5, 2012, Claimant and his wife attended Triage. Initially, Claimant was glad the department had received the Medical Needs form

from [REDACTED] until he was told that he had not been deferred, at which time Claimant stated that it was the wrong doctor filling it out and he had a doctor that would excuse him from JET. (Department Exhibit 14).

11. Claimant submitted a hearing request on September 6, 2012, protesting the closure of his FIP benefits and decrease in his FAP benefits. The hearing request was due by September 5, 2012 in order to continue benefits, thus benefits were not continued pending this hearing. (Request for a Hearing).
12. This is Claimant's first non-compliance with the FIP program. (Testimony from department representatives on 1/15/13).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (RTM), and the Reference Tables Manual (RTM).

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 the department when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments are covered by the JET case manager when a mandatory JET participant is referred at application. BEM 229.

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. A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A.

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.

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. The department coordinates the process to notify the JET case manager of triage meetings including scheduling guidelines. Clients must comply with triage requirement within the negative action period.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that is based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented. 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 JET. BEM 233A.

The penalty for noncompliance without good cause is FIP 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.

Michigan’s FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations when a Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause, or a 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. BEM 233B.

The department disqualifies 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. BEM 233B.

In this case, Claimant and his wife were required to participate in the Jobs Education and Training/Work First (JET/WF) program as a condition of receiving their FIP benefits after Claimant's medical deferral ended July 31, 2012.

Claimant failed to attend the required JET meeting on 8/13/12 at 8:45AM. Claimant appeared at the Triage at which time the department showed Claimant the Medical Needs (DHS-54E) form from his surgeon, [REDACTED] which indicated Claimant could work at any non-weight bearing job and that no one was needed in the home to care for him.

During the hearing, it was obvious that Claimant and departmental representatives had a contentious relationship. Claimant was alternately upset and solicitous. Claimant would not allow the workers to testify without interruption. Claimant testified that the department had requested a Medical Needs form from his surgeon who was not a doctor. Once it was clarified that Claimant's surgeon was also a doctor, Claimant stated it was the wrong doctor.

The department referred back to their exhibit which documented a telephone call from Claimant on 8/3/12 after he received the Work Participation Appointment Notice for 8/13/12, and requested a Medical Needs form because he was still unable to work and his wife was needed in the home to care for him. According to the department's records, Claimant requested the Medical Needs form be sent to him for his surgeon.

On August 6, 2012, the Medical Needs form was mailed to Claimant and Claimant dropped it off with his surgeon. During the hearing, Claimant testified that he called his surgeon on September 4, 2012, the day before the Triage, to ensure his surgeon faxed the Medical Needs form to the department. On 9/4/12, the department received the Medical Needs form from Claimant's surgeon.

On September 5, 2012, during the triage, when Claimant was shown the Medical Needs form they had received from his surgeon indicating Claimant could work, Claimant stated it was the wrong doctor. Claimant testified during the hearing that he contacted his primary care physician during the triage as he was the one who had first deferred him in May, 2012, and had his primary care physician fax over the Medical Needs form. Claimant was very insistent that the department received the Medical Needs form

during the triage and despite his insistence; they refused to go check the fax machine to get it.

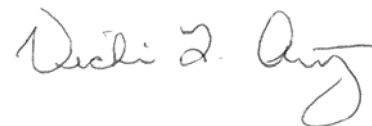
The department representatives denied that Claimant told them to check the fax machine for a Medical Needs form during the triage and all testified that they never received a Medical Needs form from Claimant's primary care physician. Claimant provided this Administrative Law Judge with the Medical Needs form from his primary care physician during the hearing. There was no proof offered that the form had ever been faxed to the department. Furthermore, Claimant's primary care physician signed the form on September 6, 2012, the day after the triage, which brought Claimant's credibility into question.

The Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for failing to attend JET on 8/13/12. As a result, the department properly closed Claimant's FIP case for non-compliance. Because Claimant was an active participant in the FAP program at the time of his FIP non-compliance, Claimant's FAP benefits were also properly reduced because he was removed from the FAP group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly reduced Claimant's FAP benefits when the department properly closed Claimant's FIP case for non-compliance with WF/JET requirements and the 3-month sanction is **AFFIRMED**.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 17, 2013

Date Mailed: January 18, 2013

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 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

VLA/las

cc:

