

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

IN THE MATTER OF:



Reg. No.: 201318680
Issue No.: 3029
Case No.: [REDACTED]
Hearing Date: January 24, 2013
County: 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 upon claimant's request for a hearing. After due notice, a hearing was held on January 24, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly sanction Claimant's Food Assistance Program (FAP) case for failure to participate in employment and/or self-sufficiency related activities?

FINDINGS OF FACT

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

- (1) On October 8, 2012, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program (FIP) and Food Assistance Program (FAP) would be sanctioned for failure to participate in employment and/or self-sufficiency related activities. The notice specifically stated that the non-compliant person would not receive Food Assistance Program (FAP) benefits from November 1, 2012 through November 30, 2012 and after that period could request to receive benefits if they had passed a compliance test or were working 20 hours per week.
- (2) On December 17, 2012, Claimant submitted a request for hearing because her Food Assistance Program (FAP) benefits had not gone back up.

CONCLUSIONS OF LAW

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM). 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 AT APPLICATION

Noncompliance by a WEI while the application is pending results in **group** ineligibility.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening.

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 client, 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 participate in employment and/or self-sufficiency related activities or the sanction of her Family Independence Program (FIP). Claimant's Food Assistance Program (FAP) did not close because there are two other FAP group members on the case. Claimant's concern is that her Food Assistance Program benefits have not gone back up.

The initial 30 day sanction of Claimant's Food Assistance Program (FAP) case is not at issue because she does not dispute her non-compliance or the sanction of her Family Independence Program (FIP). The policy cited above clearly states that if a FIP sanction is applied, the FAP sanction is also applied.

At the hearing Claimant testified that she had tried to contact her case worker about getting the FAP benefits back but the worker did not return her calls. In order to end the FAP sanction, Department policy requires that Claimant request and pass a compliance test or show that she is working 20 hours per week. There is no hearable issue in these facts because the evidence does not show that any calls made by Claimant were specific requests to participate in a compliance test. Any lack of response by the case worker to respond to general inquiry calls is not a failure to allow Claimant to meet the requirements for ending the FAP sanction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly sanctioned Claimant's Food Assistance Program (FAP) 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 **UPHELD**.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 28, 2013

Date Mailed: January 29, 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 60 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.

GFH/hj

cc:

