

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20133391
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 21, 2013
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 21, 2013. Claimant appeared and testified that her Authorized Hearing Representative could not attend the hearing as she was sick. The Department was represented by Case Manager (CM) [REDACTED] and Partnership, Accountability, Training, Hope, Case Manager (PATH/CM) [REDACTED].

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) Claimant was an ongoing recipient of Family Independence Program (FIP) benefits. It was mandatory for Claimant's benefit group to participate in the Michigan Works Agency/Jobs Education and Training Program (JET).
- (2) On August 6, 2012, Claimant was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that Claimant was required to attend the Work First/Jobs Education and Training Program on August 13, 2012.

- (3) On August 13, 2012, Claimant did not attend JET meet the JET participation requirements, but she only had 11 hours of job related activities for that week. That was the only week the Claimant had any hours of job related activity through September 30, 2012.
- (4) On September 18, 2012, the Claimant was sent a non-compliance warning notice, requiring the Claimant to submit 100 hours of job search activity for the missed weeks of August 12, 19, 26 and September 2, and 9 of 2012. This notice also scheduled a re-engagement meeting for on September 21, 2012 at 9:00 a.m. The Claimant did not attend that appointment and did not submit the required evidence of job search hours.
- (5) On September 25, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for October 4, 2012.
- (6) On October 4, 2012, Claimant did did not attend 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.
- (7) On September 25, 2012, Claimant was sent Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) Food Assistance Program (FAP) case(s) would be sanctioned.
- (8) On October 4, 2012, Claimant submitted a request for hearing.
- (9) The Claimant's FIP case has been previously sanctioned for failure to comply with employment related activities in August of 2007 and in January of 2011.

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.

**Department of Human Services Bridges Eligibility Manual (BEM)
233A (2013)**

**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.

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.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

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 **Department of Human Services Bridges Eligibility Manual (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.

See **Department of Human Services Bridges Eligibility Manual (BEM) 233B** for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

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 **Department of Human Services Bridges Eligibility Manual (BEM) 233C**.

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:

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- 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).
 - 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.

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.

BEM 233A, pp 8, 9, provides, in pertinent part:

* * *

PROCESSING THE FIP CLOSURE

Follow the procedures outlined below for processing the FIP closure:

On the night that the one-stop service center case manager places the participant into triage activity, OSMIS will interface to Bridges a noncooperation notice. Bridges will generate a triage appointment at the local office as well as generating the DHS-2444, Notice of Employment And/Or Self-Sufficiency Related Noncompliance, which is sent to the client. The following information will be populated on the DHS-2444:

- The name of the noncompliant individual
- The date of the initial noncompliance. (For individuals being served by PATH, this is the date the client was considered to be noncompliant by the one-stop service center and placed into the triage activity in OSMIS.)
- All the dates, if addressing more than one incident of noncompliance.
- The reason the client was determined to be noncompliant.

- The penalty that will be imposed.
- The scheduled triage appointment, to be held within the negative action period.

Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH. Document the good cause determination on the Noncooperation Detail Screen within 24 hours of determination.

Claimant asserts (s)he met the participation requirements.

Claimant does not dispute failure to meet JET participation requirements but asserts good cause as she is a victim of domestic violence and she did not want to be seen in public with [REDACTED] [REDACTED] and [REDACTED] on her [REDACTED]. The Administrative Law Judge inquired as to why the Claimant did not attend the triage appointment, as her injuries would have likely been persuasive evidence of her claims of [REDACTED]. The Claimant testified that she had a probation report appointment on that date and time and that she did telephone the Department to let them know she would not be able to attend. The Claimant testified that she felt her [REDACTED] appointment was more important. CM Daniel testified that if the Claimant had called she would have been immediately transferred to [REDACTED], as [REDACTED] conducts all triage appointments and would have offered the Claimant a triage over the phone at that time.

The Claimant's testimony that she is a victim of [REDACTED] is found to be less than credible as it is not supported by any evidence in the record, most particularly the case notes. The Department's testimony is logical and consistent with all documents in evidence. The Administrative Law Judge therefore concludes that the Department has met its burden of proving that they acted in accordance with departmental policy when taking action to close the Claimant's FIP case. The Administrative Law Judge also concludes that the evidence establishes that this is the Claimant's third non-compliance with employment related activities and she is therefore subject to a life-time sanction of FIP.

Evidence presented at the hearing is is not sufficient to establish that Claimant met participation requirements had good cause in accordance with Department policy.

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 did properly sanction Claimant's did not Department properly sanction Claimant's Family Independence Program (FIP) Food Assistance Program (FAP) for failure to participate in employment and/or self-sufficiency related activities.

Accordingly, the Department's FIP FAP decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

/s/
Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 18, 2013

Date Mailed: March 20, 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.

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.

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

SEH/db

cc:

