

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201343644

Issue No: 1038

Case No: [REDACTED]

Hearing Date: May 30, 2013

Ingham County DHS

**ADMINISTRATIVE LAW JUDGE:** Suzanne D. Sonneborn

**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 received by the Department of Human Services (department) on April 22, 2013. After due notice, a telephone hearing was held on May 30, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], a family independence specialist, and [REDACTED], a coordinator with the Michigan Works Partnership, Accountability, Training, Hope (PATH) program (formerly the Work First/Jobs, Education and Training program). Both individuals are with the department's Ingham County office.

**ISSUE**

Whether the department properly terminated and sanctioned Claimant's Family Independence Program (FIP) benefits based on Claimant's noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?

**FINDINGS OF FACT**

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

1. At all times relevant to this hearing, Claimant was a recipient of FIP benefits.
2. On February 24, 2012, the state Medical Review Team issued a decision denying Claimant's disability claim, and concluding that Claimant was Work Ready for purposes of the Work First/JET program. (Department Exhibit 10)

3. On July 31, 2012, the department approved Claimant's status as Work Ready with Limitations at DHS and the JET coordinator informed Claimant that while she was unable to attend the WF/JET program due to her reported disability and doctor statement, she was required to complete weekly job search logs and return them by the due date in the enclosed envelopes. The department further advised Claimant that if she did not have sufficient activities or failed to timely return her completed logs, she would face a noncompliance sanction. (Department Exhibits 6, 7, 9)
4. On December 19, 2012, the department mailed Claimant a Notice of Case Action (DHS-1605), informing Claimant that her FIP benefits had been reinstated. The department further advised Claimant that she must continue to submit her completed weekly logs. (Department Exhibit 5)
5. On December 19, 2013, the department mailed Claimant blank log forms for her completion through March 2, 2013. (Department Exhibit 4)
6. On March 25, 2013, the department mailed Claimant a Notice of Noncompliance (DHS 2444) for her failure to participate as required in employment and/or self-sufficiency related activities – specifically, Claimant's failure to submit her required weekly job logs from December 30, 2012 through March 2, 2013. The Notice indicated that, unless good cause was established, her FIP case would be closed effective May 1, 2013 for a six-month sanction as this was Claimant's second non-compliance. The Notice scheduled a triage appointment for April 10, 2013.
7. Claimant attended the April 10, 2013 triage appointment, at which time the department concluded that Claimant's reason for her failure to timely submit her required job logs (she forgot and had many things going on in her personal life) did not establish good cause for her noncompliance. (Department Exhibit 3)
8. On April 10, 2013, the department mailed Claimant a Notice of Case Action (DHS-1605), informing Claimant that, effective May 1, 2013, her FIP case would be closed and subject to a six-month sanction for her failure to participate as required in employment and/or self-sufficiency related activities. (Department Exhibits 1, 2, 11)
9. On April 21, 2013, Claimant submitted a hearing request protesting the department's closure of her FIP case. (Request for Hearing)

## **CONCLUSIONS OF LAW**

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 of that decision. BAM 600. 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).

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 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 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. JET is a program administered by the Michigan Department of Licensing and Regulatory Affairs 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. BEM 230A.

Department policy further provides that the department must serve recipients, who are determined work ready with limitations by the state Medical Review Team (MRT), when the recipient cannot be served by PATH. BEM 230A. These recipients are considered mandatory participants and must engage in activities monitored by the department. The specialist is responsible for assigning self-sufficiency activities up to the medically permissible limit of the recipient. 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.
  - .. 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. BEM 233A.

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 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, the client is offered a telephone conference at that time. Clients must comply with triage requirement within the negative action period.

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 October 1, 2011, the following minimum penalties apply:

- . For the first occurrence on the FIP case, close the FIP for not less than three calendar months.
- . For the second occurrence on the FIP case, close the FIP for not less than six calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for a lifetime sanction. BEM 233A.

Department policy further indicates that the individual penalty counter begins April 1, 2007. BEM 233A. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count.

In this case, following the department's determination that Claimant was Work Ready with Limitations for purposes of her participation in the WF/JET program, Claimant was required but failed to complete and return her weekly job logs from December 30, 2012 through March 2, 2013. As a result, the department found that Claimant was noncompliant and, because the department ultimately determined that Claimant did not

provide good cause for her failure to complete her weekly job logs for the time period in question, the department closed Claimant's FIP case and imposed a six-month sanction on Claimant's receipt of FIP benefits as this was Claimant's second noncompliance.

At the May 30, 2013 hearing, Claimant testified that she was and remains unable to complete her weekly job logs because she has no use of her right hand due to a medical condition and was therefore unable to write the logs. While this Administrative Law Judge does not doubt the truth and sincerity of Claimant's testimony, Claimant presented no current medical documentation to the department or to this Administrative Law Judge expressly stating that she was unable to complete her required log activity from December 30, 2012 through March 2, 2013 due to a medical condition that limits or prevents the use of her right hand. Moreover, the department's representatives, [REDACTED] and [REDACTED], both testified that Claimant did not at any time during this time period of her required log submittal notify them of her writing limitation. Ms. [REDACTED] further testified that she personally attended Claimant's April 10, 2013 triage appointment, during which Claimant made no reference to a writing limitation but instead indicated that she failed to submit her required logs because she forgot about the responsibility and had a lot going on her life. Finally, it is undisputed that Claimant did not bring the completed logs to either her April 10, 2013 triage appointment or to her May 30, 2013 hearing.

Testimony and other evidence must be weighed and considered according to its reasonableness. *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). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the hearing, because Claimant did not make the department aware of her difficulties in fulfilling her WF/JET job log requirement and therefore give the department the opportunity to work with her, Claimant has failed to show good cause for her failure to participate as required in employment and/or self-sufficiency related activities and the department properly closed and properly imposed a six-month sanction on Claimant's FIP case for her non-compliance with WF/JET requirements.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed and imposed a six-month sanction on Claimant's FIP case for her non-compliance with WF/JET requirements. The department's actions are therefore **UPHELD**.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: May 31, 2013

Date Mailed: May 31, 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 this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
  - The failure of the ALJ to address other relevant issues in the hearing decision.

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A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, MI 48909-07322

SDS/aca

cc:

