

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 20137288  
Issue No: 1038  
Case No: [REDACTED]  
Hearing Date: March 21, 2013  
County: Kent County DHS

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing received on October 16, 2012. After due notice, a telephone hearing was held on March 21, 2013. Participants on behalf of Claimant included Ethan Wheeler (Claimant's Authorized Hearing Representative (AHR) Support Coordinator with Spectrum Community Services) and [REDACTED] (Claimant). Participants on behalf of the Department included [REDACTED] s (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

**ISSUE**

Did the department properly terminate and sanction the claimant's Family Independence Program (FIP) benefits for 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. The claimant was actively receiving FIP and was a mandatory participant in the WF/JET program.
2. On May 23, 2012, the department mailed the claimant a Notice of Case Action (DHS-1605) which closed his FIP case effective July 1, 2012 and imposed a 6 (six) month sanction after the claimant failed to attend a JET program appointment as scheduled. The DHS-1605 indicated, "[y]ou will not be eligible to reapply for six months (sanction)."
3. On August 10, 2012, the department received an application for FIP assistance submitted on behalf of the claimant.

4. On September 21, 2012, the department mailed the claimant a Notice of Case Action (DHS-1605) which denied the application because the claimant's 6 (six) month sanction period had not expired at the time of application. The DHS-1605 noted that the claimant's group is not eligible for benefits from July 1, 2012 through December 31, 2012 and suggested that the claimant reapply during the last month of the penalty period.
5. The claimant requested a hearing challenging the application denial on May 4, 2011. (Request for a Hearing).

### **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 (RFT), and the Bridges Reference Manual (BRM).

The 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 for FIP, when a client's reason for deferral ends, or a member add is requested. BEM 229.

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in the JET Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and obtain stable employment. BEM 230A. A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. BEM 230A.

An applicant, recipient or a member add is noncompliant if he or she, without good cause, fails or refuses to do any of the following: (1) appear and participate with the JET Program or other employment service provider; (2) complete a Family Automated

Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process; (3) develop a FSSP or a Personal Responsibility Plan and Family Contract (PRPFC); (4) comply with activities assigned to on the FSSP; (5) provide legitimate documentation of work participation; (6) appear for a scheduled appointment or meeting related to assigned activities; (7) participate in employment and/or self-sufficiency-related activities; (8) accept a job referral; (9) complete a job application; (10) appear for a job interview. BEM 233A.

The Department's computer system ("Bridges") automatically denies FIP applicants still pending or creates a record of noncompliance when a member is added or client whose deferral is ending when attendance at the work participation program is not entered by the one-stop service center by the 22nd day after the day the work participation program referral is made. BEM 229. Bridges also automatically denies FIP when a client fails to continue to participate while the FIP application is pending. BEM 229. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with the work participation program. BEM 229. A good cause determination is not required for applicants who are noncompliant prior to FIP case opening. BEM 233A.

The penalty for noncompliance without good cause is FIP closure. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure for a minimum of 3 (three) months for the first episode of noncompliance, 6 (six) months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A.

The sanction period begins with the first pay period of a month. BEM 233A. Penalties are automatically calculated by the entry of noncompliance without good cause in Bridges. This applies to active FIP cases, including those with a member add who is a WEI work participation program participant. BEM 233A.

Here, the issue before the Administrative Law Judge is whether the department acted properly when it denied the claimant's August 10, 2012 application for FIP assistance. According to the department, the claimant, at the time of his August 10, 2012 application, had not completed his 6 (six) month FIP sanction due to a previous noncompliance with the JET program that began in May, 2012. The claimant's AHR testified that the claimant suffers from physical, mental and emotional problems including cognitive impairment. The claimant's AHR also stated that he assisted the claimant with the August, 2012 FIP application but was unaware at the time that the claimant had been under a 6 (six) sanction due to noncompliance with JET. On May 23, 2012, the department mailed the claimant the Notice of Case Action (DHS-1605) which closed the claimant's FIP case and imposed the 6 (six) month sanction effective July 1, 2012 until January 1, 2013.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R

400.951. Specifically, Bridges Administrative Manual (BAM) 600, p. 4, provides that “[t]he client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.”

In the instant matter, the claimant had 90 days after May 23, 2012 to request a hearing to challenge the department’s decision to close his FIP case and impose the 6 (six) month sanction. The deadline to request a hearing to challenge the May 23, 2012 FIP closure and sanction was on or about August 23, 2012. Rather than file a timely hearing request, the claimant submitted an application for FIP despite still be under a 6 (six) month FIP sanction until January 1, 2013. Because the claimant failed to timely request a hearing on the underlying FIP closure and 6 (six) month sanction, this Administrative Law Judge lacks jurisdiction to hear the claimant’s case regarding the May 23, 2012 Notice of Case Action. Thus, the department properly denied the claimant’s August 10, 2012 FIP application because he was ineligible due to the imposition of a previous sanction. The claimant was not eligible for FIP before January 1, 2013 thus his August 10, 2012 was null and void.

Accordingly, this Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department properly denied the claimant’s August 10, 2012 FIP application.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant’s August 10, 2012 FIP application due to ineligibility. The department’s FIP decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
C. Adam Purnell  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 26, 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

CAP/cr

cc:

