

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-13882
Issue No: 1038; 3003
Case No: [REDACTED]
Hearing Date: January 10, 2013
Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's Request for a Hearing was received on November 21, 2012. After due notice, a telephone hearing was held on Thursday, January 10, 2013. The claimant personally appeared and testified on her own behalf with her boyfriend, [REDACTED], as a witness. The department was represented by [REDACTED], FIS and [REDACTED], JET.

ISSUE

1. Whether the Department of Human Services (Department) properly sanctioned the Claimant's Family Independence Program (FIP) case for noncompliance with the Jobs, Education, and Training (JET) program?
2. Did the department properly continue to count the claimant's FIP amount on her FAP budget even though she was being sanctioned as a result of FIP JET noncompliance?

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 a recipient of FIP benefits, which required her to participate in the JET program.
2. On August 24, 2012, the claimant was being triaged because she failed to attend a required job activity and falsified job leads and did not submit applications at different sites submitted when audited by JET. Department Exhibit 2 and 5-11.

3. On September 7, 2012, the claimant was sent a Notice on Noncompliance (DHS-2444) requesting a triage meeting on September 13, 2012. Department Exhibit a-b.
4. The Department conducted a triage meeting on September 13, 2012 where the determination was made that the claimant did not have good cause for not complying with the JET requirements. Department Exhibit 1 and 4.
5. On August 24, 2012, the Department notified the Claimant that it would close the claimant's FIP benefits as of October 1, 2012. Department Exhibit 13-17.
6. The Department received the Claimant's request for a hearing on November 21, 2012, protesting the closing of the claimant's FIP benefits.
7. When the claimant was removed from the FAP budget as is required by her JET noncompliance, the FIP income was still being counted as required in FAP policy BEM233B.
8. On November 30, 2012, the department caseworker submitted a DIT Remedy ticket to correct the FIP Penalty Counter from the 3rd penalty to the 2nd penalty. Department Exhibit 18.
9. On January 7, 2013, the department caseworker received an email stating that this was claimant's 3rd sanction because, even though excused, the system still received the penalty count. Department Exhibit D & C.

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, 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).

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 DHS when the client applies for cash assistance. Jobs, Education and Training (JET) program requirements, education and training opportunities, and assessments will be 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 Labor and Economic Growth (DLEG) 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.

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.

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:

NONCOMPLIANCE PENALTIES FOR ACTIVE FIP INDIVIDUALS 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. BEM, Item 233A.

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.

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. BEM 233b. The FAP group member should be disqualified 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, and
- The client did not have good cause for the noncompliance. BEM 233B.

The Department should budget the Last FIP grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the 1st noncompliance, 6 months for 2nd noncompliance, and a lifetime for the third noncompliance) after the FIP case closes for employment and/or self sufficiency-related noncompliance. The Last FIP grant amount is the grant amount the client received immediately before the FIP case closed.

The Claimant was an ongoing Family Independence Program (FIP) recipient. The Department had referred the claimant to the JET program as a condition of receiving FIP benefits. The Claimant was noncompliant with the JET program because she missed a required job event and falsified job leads. The Department conducted a triage meeting on September 13, 2012 and it was determined that the claimant did not have good cause for noncompliance with the JET program.

During the hearing, the claimant cited that she did not have transportation to attend the job even, but there was no documentation that the claimant let her JET caseworker know that transportation was an issue for her. The claimant was already on probation for falsifying job leads, which resulted in her case being sent to triage. Based on the evidence and testimony available during the hearing, the Department's determination that the Claimant did not have good cause for JET noncompliance with the JET program is reasonable.

The Department has established that it acted properly when it closed the Claimant's FIP benefits for noncompliance with the JET program. Although the department caseworker thought that this was the claimant's 2nd sanction instead of her 3rd sanction when she requested the DIT remedy ticket, it was actually the claimant's 3rd sanction. As a result, the remedy ticket was denied when reviewed by DHS policy unit confirming that this is the claimant's 3rd sanction. The claimant's be sanctioned for FIP benefits for a lifetime.

BEM 233B FAILURE TO MEET EMPLOYMENT REQUIREMENTS: FAP

DEPARTMENT PHILOSOPHY, Page 1

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Cash Assistance (RCA). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for a client who refuses to participate in FIP/RCA employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

DEPARTMENT POLICY, Page 1

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/RCA may affect FAP if both programs were active on the date of the FIP noncompliance; see BEM 233A.

Budgeting Last FIP, Page 3

Bridges applies policies associated with a FIP related noncompliance and budgets the *Last FIP* grant amount into the FAP budget. The FIP grant is removed from the FAP budget at the end of the FIP penalty period. **For individuals serving a lifetime sanction, Bridges will remove the FIP income from the FAP budget once the individual reaches their FIP lifetime time limit.**

In instances in which the individual serving a FIP sanction leaves the group, the sanction follows that individual. When the client reapplies for FIP, Bridges will remove the FIP income from the FAP budget

When the individual with the lifetime sanction enters a different FIP group, Bridges will close the FIP case for the lifetime sanction and budget the last FIP, for that sanctioned individual, into the FAP budget for the new group.

This Administrative Law Judge based on the aforementioned policy of BEM 233B finds that the claimant's FIP income should be counted until the claimant reaches her FIP lifetime time limit because of JET noncompliance. The claimant was correctly removed from the FAP group and the FIP income should be counted until the claimant reaches her FIP lifetime time limit because of JET noncompliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy when it sanctioned the Claimant's FIP case for noncompliance with the JET program. This is the claimant's 3rd sanction where her FIP benefits will be cancelled for a lifetime. In addition, the claimant's FIP benefits is still required to be counted as income in the claimant's FAP budget based on BEM 233B until the claimant reaches her FIP lifetime time limit because of JET noncompliance.

The Department's FIP sanction is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 30, 2013

Date Mailed: February 1, 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. (60 days for FAP cases).

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 to:

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

CGF/hj

cc:

