

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201316258
Issue No: 1038
Case No: [REDACTED]
Hearing Date: January 16, 2013
County: Monroe

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 Claimant's request for a hearing received on December 3, 2012. After due notice, a telephone hearing was held on January 16, 2013. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED] (Family Independence Specialist) and [REDACTED] (PATH Case Manager).

ISSUE

Whether the Department properly denied Claimant's application for 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. Claimant applied for FIP on October 10, 2012.
2. The Department mailed Claimant a Notice of Case Action (DHS-1605) on November 26, 2012, denying Claimant's FIP application and indicated that he "failed to participate in the work first program as required" before the opening of his FIP case.
3. Claimant submitted a hearing request on December 3, 2012, protesting the denial of his FIP application.

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).

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. BEM 229. 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. BEM 229. 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 and Refugee Assistance Program (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. WEIs not referred to the work participation program will participate in other activities to overcome barriers so they may eventually be referred to the work participation program or other employment service provider. BEM 230A.

At application, the Department is required to ensure the client understands his/her responsibility to participate in employment-related activities including, but not limited to, calling before they are unable to attend a meeting or appointment and before they become noncompliant. BEM 229. The Department shall also coordinate with the client

an agreed upon date for attendance at orientation. BEM 229. This will eliminate the need for multiple assignment dates or appointment changes. BEM 229.

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.

When assigned, clients must engage in and comply with all work participation program assignments while the FIP application is pending. BEM 229. Work participation program engagement is a condition of FIP eligibility. BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229. Bridges automatically denies FIP benefits for noncompliance while the application is pending. BEM 229.

The work participation program is administered by the Workforce Development Agency, State of Michigan (WDASOM) through the Michigan one-stop service centers. BEM 230A. The work participation program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. 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 Jobs, Education and Training (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.¹ BEM 233A. Noncompliance by a WEI while the application is pending results in group ineligibility. BEM 233A.

In this matter, the central issue is whether the Department properly denied Claimant's FIP application because he failed to attend a required WF/JET activity known as "Job

¹ The Department will 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. BEM 233A.

Club.” In support of this contention, the Department submitted a November 9, 2012 letter from Michigan Works Monroe Service Center which scheduled Claimant to attend Job Club on Mondays from 9:00am to 12:00pm beginning November 19, 2012. It should be noted that there is no dispute that Claimant did not attend Job Club. This issue; however, is whether Claimant’s failure to attend is excusable.

Claimant, in defense of his failure to attend Job Club on November 19, 2012, raises several points. First, Claimant submits that he attempted to call his JET worker to inform her that his wife had a medical disability which required his care, but he received no response. Second, Claimant argues that because he had been volunteering with Catholic Services in Ann Arbor, he also requested that he be excused from Job Club. Claimant states that the Department failed to return his telephone messages. Third, Claimant asserts that his educational attendance should be credited toward his weekly WF/JET requirements, but that the Department refused to do so.

In response, the Department offered documents which memorialized the ongoing conversations between the parties during November, 2012. The records indicate that the Department advised Claimant that in order to obtain school credit he would need to provide documentation from the institution. These records also show that the Department requested documentation and supervisor approval in order for Claimant’s volunteering site to be counted toward his WF/JET participation requirements.

This Administrative Law Judge finds that Claimant was noncompliant with JET. The evidence shows that Claimant was required to attend Job Club on November 19, 2012. The record shows that Claimant did not have a reasonable excuse for his absence and he did not have approval to use any other activity to replace his required attendance. Claimant did not provide documentation to support his claims. He did not provide medical documentation nor did he provide any documents to show that his volunteering or schooling was approved. The WF/JET program has the ultimate authority regarding what activities are acceptable toward job related requirements as well as the manner in which activities are approved. Good cause is not required in this instance, but even if it were a factor, there is no evidence that Claimant has shown good cause for his failure to attend Job Club. Accordingly, the Department properly denied Claimant’s FIP application.

substantial evidence presented during the hearing, the Department properly denied Claimant’s 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 Claimant's FIP application because Claimant was noncompliant with WF/JET requirements before his case was opened. Accordingly, the Department's 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: January 25, 2013

Date Mailed: January 28, 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

2013-16258/CAP

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:

