

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201319384
Issue No: 1038
Case No: [REDACTED]
Hearing Date: January 31, 2013
Jackson 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 December 18, 2012. After due notice, a telephone hearing was held on January 31, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], a family independence manager, and [REDACTED], a JET case worker, both with the department's Jackson County office.

ISSUE

Whether the department properly denied Claimant's Family Independence Program (FIP) application?

FINDINGS OF FACT

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

1. On or about November 2012, Claimant applied for FIP benefits.
2. On November 19, 2012, the department mailed Claimant a Work Participation Program Notice (DHS-4785), notifying her of her required attendance at the Work Participation Program on December 3, 2012 at 8:00 a.m. The Notice further advised Claimant that her failure to attend the work participation program will result in the denial of benefits. The Notice further advised Claimant that if she was unable to keep this appointment, she must call and reschedule the appointment before the scheduled appointment date. (Department Exhibit 1)
3. Claimant neither attended nor called in advance to reschedule her December 3, 2012 reengagement appointment.

4. On December 13, 2012, the department mailed Claimant a Notice of Case Action for her failure to participate as required in employment and/or self-sufficiency related activities. The Notice indicated that, effective December 1, 2012, her application for FIP benefits had been denied because she failed to attend JET and to remain in compliance with JET activities before the opening of her cash case. (Department Exhibits 2-3)
5. December 18, 2012, Claimant submitted a hearing request protesting the department's denial of her application for FIP benefits.

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 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 (LARA) 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.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening. BEM 233A. The standard of promptness for processing the FIP application begins the date the department receives the application/filing form, containing the minimum required information. The department then has 45 days to certify program approval or denial of the FIP application. BAM 115.

In this case, Claimant applied for FIP in November 2012. On November 19, 2012, the department mailed Claimant a Work Participation Program Notice (DHS-4785), notifying her of her required attendance at the Work Participation Program on December 3, 2012 at 8:00 a.m. The Notice further advised Claimant that her failure to attend the work participation program will result in the denial of benefits. The Notice further advised Claimant that if she was unable to keep this appointment, she must call and reschedule the appointment before the scheduled appointment date. Claimant neither attended nor called in advance to reschedule her December 3, 2012 appointment and, because the department's 45 days to certify program approval or denial were still in effect, Claimant's application was denied for noncompliance. A Triage was not scheduled to determine good cause in this case because a good cause determination is not required for applicants who are noncompliant prior to the FIP case being opened.

At the January 31, 2013 hearing, Claimant testified that she called Michigan Works on December 4, 2012 to report that she could not attend JET due to her school schedule. Claimant acknowledged, however, that she did not make any effort to reschedule her December 3, 2012 in advance of the appointment, as required in the Work Participation Program Notice.

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 Claimant has acknowledged her failure to attend or call in advance and reschedule her required December 3, 2012 appointment. Accordingly, this Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, the department properly denied Claimant's FIP application for noncompliance when she failed to attend the mandatory WF/JET orientation.

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 for noncompliance when she failed to attend the mandatory WF/JET orientation. 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: February 6, 2013

Date Mailed: February 6, 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/cr

cc:

