

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

IN THE MATTER OF:



Reg. No.: 201319436
Issue No.: [REDACTED]
Case No.: 113145281
Hearing Date: February 12, 2013
County DHS: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 12, 2013. Claimant appeared and testified. The Department was represented by Family Independence Manager (FIM), [REDACTED]; Eligibility Specialist (ES), [REDACTED]; and Jobs Education and Training Case Manager (JET/CM), [REDACTED].

ISSUE

Did the Department properly sanction Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of Family Independence Program (FIP) benefits. It was mandatory for Claimant's benefit group to participant in the Michigan Works Agency/Jobs Education and Training Program (JET).
2. On November 13, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for November 20, 2012.
3. On November 20, 2012, Claimant did did not attend the scheduled meeting. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities.

4. On November 13, 2012, Claimant was sent Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) and Food Assistance Program (FAP) case(s) would be sanctioned.
5. On December 26, 2012, Claimant submitted a request for hearing.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACRS R 400.3001-3015.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

Department of Human Services Bridges Eligibility Manual (BEM) 233A (2013)

FAILURE TO MEET EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED REQUIREMENTS: FIP

DEPARTMENT PHILOSOPHY FIP

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

DEPARTMENT POLICY FIP

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see **Department of Human Services Bridges Eligibility Manual (BEM) 228**, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:

- Delay in eligibility at application.
- Ineligibility (denial or termination of FIP with no minimum penalty period).
- Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

See **Department of Human Services Bridges Eligibility Manual (BEM) 233B** for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

See **BEM 233B** for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see **Department of Human Services Bridges Eligibility Manual (BEM) 233C**.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

Noncompliance of applicants, recipients, or member adds means doing **any** of the following **without** good cause:

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

- 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).
 - Comply with activities assigned on the 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.
 - Participate in required activity.
 - 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.

GOOD CAUSE FOR NONCOMPLIANCE

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.

BEM 233A, pp 8, 9, provides, in pertinent part:

* * *

PROCESSING THE FIP CLOSURE

Follow the procedures outlined below for processing the FIP closure:

On the night that the one-stop service center case manager places the participant into triage activity, OSMIS will interface to Bridges a noncooperation notice. Bridges will generate a triage appointment at the local office as well as generating the DHS-2444, Notice of Employment And/Or Self-Sufficiency Related Noncompliance, which is sent to the

client. The following information will be populated on the DHS-2444:

- The name of the noncompliant individual
- The date of the initial noncompliance. (For individuals being served by PATH, this is the date the client was considered to be noncompliant by the one-stop service center and placed into the triage activity in OSMIS.)
- All the dates, if addressing more than one incident of noncompliance.
- The reason the client was determined to be noncompliant.
- The penalty that will be imposed.
- The scheduled triage appointment, to be held within the negative action period.

Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end of the negative action period and can be based on information already on file with the DHS or PATH. Document the good cause determination on the Noncooperation Detail Screen within 24 hours of determination.

In this case, the DHS-2444 Notice of Non-compliance indicates that the Claimant failed to complete the FAST on August 15, 2012, and failed to complete the FSSP on October 14, 2012. The case notes in evidence do not mention anything about failing to complete the FAST or FSSP in August, but do indicate that the Claimant failed to turn in job search logs for the week of August 12, 2012. The notes further indicate that there was another triage scheduled for October 2, 2012, and at that time the Claimant was found to have good cause for non-compliance. The notes are silent as to any failure of the Claimant to complete the FSSP in October. The Claimant testified that she did not even know what a FAST or FSSP was.

The Department testimony during the hearing was that the Department workers do not put the dates of non-compliance into the DHS-2444, Notice of Non-compliance. This is done by the Bridges computer system. The Department testimony was that Claimant was non-compliant because she did not do the required hours of job search during the week of November 7, 2012. The Claimant testified that there was a time when she was short on her job search hours, but it was during a week when she lost power and when she attempted to turn in what she had, the department instructed her not to, as she was going to triage. The case notes in evidence regarding the triage indicate that, "Good cause for *not attending* was not established." The notes are silent as to any explanation from the Claimant or why no good cause was found.

In this case, the Department has testified to three instances of non-compliance. Failure to complete the FAST and FSSP (which subsequent to her alleged failure to complete the FAST, she was at triage and established good cause). These allegations are not

supported by the case notes in evidence. The Department also alleges that the Claimant did not complete the required amount of job search hours and the Claimant indicates that she had good cause for that and tried to submit what it is that she had completed and the Department refused to accept it. The case notes in evidence also indicate that, at the time of triage, the Claimant also did not attend something she was required to attend and no good cause for that was found. Yet there is no evidence of what it was that she was required to attend, what her statements were at the time of triage for why she did not attend and lastly, why it was that not good cause was granted.

BEM 233A, pp 8, 9 require that the department send the Claimant a notice of non-compliance which details the dates of her non-compliance and what she did or did not do that constitutes the non-compliance. In this case, the allegations during the hearing are inconsistent with the Notice of Non-compliance.

Evidence presented at the hearing is not sufficient to establish that the Department's action to close the Claimant's FIP case was in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did did not Department properly sanction Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) for failure to participate in employment and/or self-sufficiency related activities.

Accordingly, the Department's FIP and FAP decision is AFFIRMED **REVERSED** for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate action to reinstate the Claimant's FIP case back to the date of closure.
2. Initiate action to issue the Claimant any supplements that she may thereafter be due.



Susanne E. Harris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/22/13

Date Mailed: 3/22/13

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

SEH/kl

cc:

