

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

IN THE MATTER OF:



Reg. No.: 201321803
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 6, 2013
County DHS: Bay

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 6, 2012. Claimant appeared and testified. The Department was represented by PATH Coordinator, [REDACTED].

ISSUE

Did the Department properly sanction Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) cases 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 therefore was mandatory for Claimant's benefit group to participant in the Michigan Works Agency/Jobs Education and Training Program (JET).
2. On August 2, 2012, Claimant was sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that Claimant was required to attend the Work First/Jobs Education and Training Program on August 13, 2012, but ultimately the Claimant was informed by her worker that her last date to make the orientation was August 20, 2012.

3. On August 20, 2012, Claimant did not attend JET meet the JET participation requirements. On August 21, 2012, the Claimant left JET early.
4. On October 15, 2012, the Claimant asserted she could not comply with JET requirements due to illness.
5. On November 16, 2012, the Medical Review Team (MRT) denied that the Claimant was disabled and provided that she had a limitation of seizure precaution and unskilled work.
6. On December 1, 2012, the Claimant was again sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) scheduling an appointment for December 17, 2012. The Claimant telephoned the Department and said she could not attend because she had a hearing with the Social Security Administration (SSA) to determine whether or not she qualified for those benefits.
7. The Department then telephoned the Claimant and instructed her to attend JET on December 26, 2012. The Department also sent the Claimant a DHS-100 note to remind her of the appointment.
8. The Claimant did not attend the December 26, 2012, JET appointment.
9. On December 28, 2012, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for January 3, 2012.
10. On January 3, 2013, Claimant 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.
11. On December 28, 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.
12. On January 7, 2013, 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 AACS 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

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.

Claimant asserts (s)he met the participation requirements.

Claimant does not dispute failure to meet JET participation requirements but asserts good cause based on her disability. The Claimant was not deferred from employment related activities based on disability, as the MRT had determined that she was capable of such activities, with limitations. The Claimant testified at the hearing that she was simply going to wait on the decision from SSA regarding her disability, as she believed that decision to be forthcoming shortly.

Evidence presented at the hearing is not sufficient to establish that Claimant had good cause in accordance with Department policy. Therefore, the Administrative Law Judge finds that the Department was acting in accordance with its policy when taking action to close the Claimant's FIP case and sanction her FAP case for failure to comply with employment related activities.

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 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.

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

Date Signed: February 26, 2013

Date Mailed: February 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.

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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:

