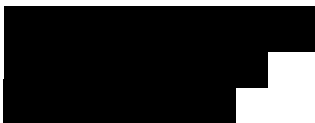


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2013-22367
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 14, 2013. Claimant appeared and testified. The Department was represented by FIM [REDACTED]. The case worker during the time period at issue was not at the hearing.

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 to participate in the Michigan Works Agency/Jobs Education and Training Program (JET).
- (2) On October 1, 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 October 15, 2012 or within 20 days of the notice.
- (3) On October 25, 2012, Claimant had not attended JET. She was sent a Notice of Non-Compliance (DHS -2444) which scheduled a triage meeting for November 7, 2012. Claimant was also sent Notice of Case

Action (DHS-1605) stating that the Family Independence Program (FIP) would be sanctioned.

- (4) On November 7, 2012, Claimant participated in the triage meeting. The Department determined there was no good cause for Claimant's failure to participate in employment and/or self-sufficiency related activities.
- (5) On December 17, 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.

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

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 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 BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

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.

Good cause includes the following:

No Transportation

The client requested transportation services from DHS, JET, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Claimant does not dispute that she failed to attend JET as required. Claimant asserts she had good cause since her car was broken down. Claimant testified that she lives out in the country and does not have any friends or family who could drive her in to JET. She also testified that: her car was making noises on October 8, 2012 and would not run on October 9, 2012; her uncle owns a car repair shop and the car was in his shop until October 16, 2012; she lost the original receipt; her uncle wrote out a copy of the receipt for her to bring to this hearing. Claimant submitted a generic invoice from Atlas Auto & Towing which states Nicole Brewster's 1995 Olds was in the garage for engine trouble from October 9 to 16, 2012. The invoice is dated February 11, 2013. Claimant also testified that the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) said she was to call her DHS Specialist before missing the appointment so she called and left several messages before October 15, 2012. Claimant was asked why she did not drive to JET or DHS once her car was repaired on the 16th and try to avoid being in non-cooperation since she still had 3 days before the 20 day period was up. Claimant testified that she had left messages with the DHS case worker and was waiting for a call back to find out what to do.

It is noted that this would be Claimant's second Family Independence Program (FIP) sanction so Claimant is aware of the consequences of non-cooperation with JET. Based on the totality of evidence in this record Claimant's tailor made car trouble is not found credible. Furthermore Claimant's testimony that she had her car back on October 16, 2012 means that her failure to report to JET or reschedule with the DHS case worker before October 20, 2012, as directed in the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form), was not beyond her control.

The evidence in this record does not establish that Claimant had good cause for not attending JET, in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department properly sanctioned Claimant's Family Independence Program (FIP) for failure to participate in employment and/or self-sufficiency related activities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.

/s/

Gary F. Heisler
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 15, 2013

Date Mailed: February 18, 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.

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

2013-22367/GFH

GFH/las

cc:

