

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201331116  
Issue No: 1038  
Case No: [REDACTED]  
Hearing Date: April 24, 2013  
County: Bay 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 February 19, 2013. After due notice, a telephone hearing was held on April 24, 2013. Claimant appeared and provided testimony and Claimant's husband, [REDACTED], appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], coordinator of the Partnership, Accountability, Training, Hope (PATH) program, and [REDACTED], a PATH worker, both with the department's Bay County office.

**ISSUE**

Whether the department properly closed and sanctioned Claimant's Family Independence Program (FIP) benefits based on Claimant's group member's 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. At all times relevant to this hearing, Claimant was a recipient of FIP benefits and, as a recipient of FIP benefits, Claimant and Claimant's husband were mandatory WF/JET participants, unless otherwise deferred from the program.
2. On December 12, 2012, the Department mailed [REDACTED] a Work Participation Program Appointment Notice (DHS 4785), advising him of his required attendance at his JET appointment on December 26, 2012 at 9:00 a.m. (Department Exhibit 1)

3. [REDACTED] did not attend his December 26, 2012 appointment. (Department Exhibit B)
4. On December 27, 2012, [REDACTED] reported to the department that he had slipped and fallen on December 26, 2012, resulting in a broken hand that required medical attention and kept him from attending his December 26, 2012 JET orientation.
5. On January 3, 2013, the department mailed Claimant a JET Medical Needs form (DHS-54E), requiring [REDACTED] to have his physician complete and return the Medical Needs form regarding his hand injury in order that the department may determine his eligibility for an excused absence from the JET program. (Department Exhibit 3)
6. On January 4, 2013, the department advised Claimant of [REDACTED] required completion of the Medical Needs form for his injured hand in order to avoid being in noncompliance with the JET program. (Department Exhibit 2)
7. On January 4, 2013, the department mailed Claimant a Notice of Noncompliance (DHS 2444) and a Notice of Case Action for [REDACTED] failure to participate as required in employment and/or self-sufficiency related activities. The Notices indicated that, unless good cause was established, her FIP case would be closed effective February 1, 2013 for a three-month sanction as this was Claimant's first non-compliance. The Notice scheduled a triage appointment for January 10, 2013 at 8:00 a.m. and advised Claimant that the triage appointment was an opportunity to report and verify the reasons for [REDACTED] noncompliance with the program. (Department Exhibits 4, 5)
8. [REDACTED] attended the January 10, 2013 triage appointment, at which time he reported that, while he had gone to [REDACTED] on December 26, 2012 following his hand injury for x-rays and an MRI, he did not bring any records of that visit to the triage appointment. [REDACTED] further reported that he had a doctor's appointment on January 24, 2013 and was therefore unable to bring any medical documentation to the department before that time. (Department Exhibit 2)
9. Effective February 1, 2013, Claimant's FIP case was closed and subject to a three-month month sanction due to [REDACTED] failure to verify good cause for his inability to participate as required in employment and/or self-sufficiency related activities. (Department Exhibit 5)
10. On February 17, 2013, Claimant submitted a hearing request protesting the department's closure of her FIP case.

11. On February 19, 2013, the department obtained verification from [REDACTED] that [REDACTED] did not receive any medical treatment there on December 26, 2012. (Department Exhibit 7)
12. At no time since [REDACTED] reported to the department that he sustained a hand injury on December 26, 2012 has he submitted any medical documentation to the department verifying any reported medical treatment for the injury.

### **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 and 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. 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.

JET participants will not be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. Clients must comply with triage requirement within the negative action period.

The department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A.

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. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A.

Good cause should be determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

Good cause includes, among other things, the following:

- **The client is physically or mentally unfit for the job or activity, as shown by medical evidence or other reliable information.** This includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. The disability-related needs or limitations may not have been identified or assessed prior to the noncompliance. BEM 233A. (Emphasis added)

The penalty for noncompliance without good cause is FIP closure. Effective October 1, 2011, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for not less than three calendar months.

- . For the second occurrence on the FIP case, close the FIP for not less than six calendar months.
- . For the third and subsequent occurrence on the FIP case, close the FIP for a lifetime sanction. BEM 233A.

Department policy further indicates that the individual penalty counter begins April 1, 2007. BEM 233A. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count.

Department policy further indicates that a noncompliant group member will be sanctioned from the FAP group for the FIP noncompliance if they are not deferred from FAP work requirements. BEM 233B.

In this case, Claimant's husband, [REDACTED], was required to participate in the JET/Work First program as a condition of Claimant's receipt of FIP benefits. On January 4, 2013, the department found that [REDACTED] was noncompliant for failing to participate as required in employment and/or self-sufficiency related activities—specifically, his failure to attend his December 26, 2012 JET appointment. And, because [REDACTED] did not provide any medical documentation at his January 10, 2013 triage appointment or by the extended deadline of January 16, 2013, to support his explanation that he injured his hand on December 26, 2012 and required medical treatment that day, the department closed Claimant's FIP case effective February 1, 2013 for a three-month sanction.

At the April 24, 2013 hearing, the department's representative testified and provided supporting documentary evidence establishing, among other things, that [REDACTED] had reported to the department on January 10, 2013 that he had received emergency medical treatment on December 26, 2012 at [REDACTED] — a fact subsequently contradicted by [REDACTED], from whom the department sought verification that [REDACTED] was not treated there on that day.

[REDACTED] testified that he did not attend his Work First appointment on December 26, 2012 due to a hand injury he sustained that morning. [REDACTED] further testified that he sought immediate medical attention that day, including x-rays and an MRI, at [REDACTED]. [REDACTED] further testified that the earliest date that he could obtain an appointment with a physician for completion of the Medical Needs form was not until January 24, 2013, at which time it would have been too late to provide such medical documentation to establish good cause for the noncompliance. Mr. Schweinsberg offered no explanation, however, for why he was unable to retrieve copies of the records from his December 26, 2012 emergency room visit at [REDACTED] in advance of his January 10, 2013 triage appointment or, indeed, in advance of this hearing to support his position.

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, against the backdrop of [REDACTED] conflicting reports of where he sought medical attention on December 26, 2012, as well as his failure to produce any record of his December 26, 2012 emergency room visit, either at his January 10, 2013 triage appointment or at his April 24, 2013 hearing in this matter, [REDACTED] testimony regarding his inability to attend the JET program is unconvincing and unreasonable. Accordingly, this Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, [REDACTED] has failed to show good cause for his failure to participate as required in employment and/or self-sufficiency related activities and the department properly closed and imposed a three-month sanction on Claimant's FIP case.

#### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed and properly imposed a three-month sanction on Claimant's FIP case for her husband's non-compliance with WF/JET requirements. 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: April 26, 2013

Date Mailed: April 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 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.

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/aca

cc:

