

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20135429
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: January 24, 2013
County: Lenawee

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, an in-person hearing was held on January 24, 2013. Claimant appeared with her authorized representative, [REDACTED] and provided testimony on her behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Was good cause for JET non-compliance medically established?

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 May 5, 2012, Claimant applied FIP/FAP and was approved with deferral from JET and issue medical forms.
2. On September 7, 2012, Medical Review Team (MRT) used medical evidence acquired before application and denied Claimant's JET deferral without the requested medical verification.
3. On September 12, 2012, the Department of Human Services (DHS) notified the Claimant of the MRT denial; she was also notified of the JET participation appointment allowing her 20 days to attend as a mandatory participant.
4. On October 6, 2012, the DHS terminated the Claimant FIP/FAP based on non-compliance of the JET program per BEM 233A and B, with a hearing request on October 12, 2012.

5. On October 18, 2012, the Claimant's husband represented her at the triage meeting. On that date he requested and was given medical verification forms regarding a JET deferral.
6. At the hearing on January 24, 2013, the Claimant submitted the requested medical verification for the first time, along with past submitted medical examinations on November 24, 2010, July 13, 2011 (Claimant Exhibit 1) and on January 24, 2013, the same date of the 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, 8 USC 601, *et seq.* The Department of Human Services (DHS or 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 Program Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Facts above are undisputed.

The penalty for non-compliance without good cause is FIP EDG closure. BEM 233A, Page 6.

Good cause is a valid reason for non-compliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A, Page 4.

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency related activities. Non-compliance of applicants, recipients, or member adds means doing any of the following, in pertinent part, without good cause:

Failing or refusing to appear and participate with PATH or other employment service provider. BEM 233A, Page 2.

If a participant is active FIP and FAP at the time of FIP non-compliance, determination of FAP good cause is based on the FIP good cause reasons outlined in the BEM 233A. For the FAP determination, if the Claimant does not meet one of the FIP good reasons, determined the FAP disqualification based on FIP deferral criteria. PEM 233B, Page 2.

The DHS- 1171, assistance application information booklet provides each application with information about the work requirements. The same information about work requirements is provided in the MI Bridges online application. Revealed information found in the information booklet, or directed to the Claimant to review his/her MI Bridges online application and the DHS-1538, work and self-sufficiency rules, with Claimant's at application, redetermination and when a change in circumstances might affect the person's required hours of participation. Impertinent part reviews all the following work requirements and reasons why a person's may be deferred from work participation and the self-sufficiency requirements. BEM 230A, Page 1.

At in-take, redetermination or any time during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the Claimant should be deferred in Bridges. Condition includes medical problems such as mental or physical injury, illness, impairment or learning disability. BEM 230A, Page 9.

Claimants meeting one of the criteria below are temporarily deferred from employment-related activities:

Persons incapacitated due to injury, physical illness or mental illness. BEM 230B, Pages 3 and 4.

Good cause means a circumstance which is considered a valid reason for non-compliance with a requirement. BPG Glossary, Page 19.

Once a Claimant claims a disability he/she must provide DHS verification of the disability **when requested**. The verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The Claimant will be required to participate in PATH as a mandatory participant; see verification sources in this item. BEM 230A, Page 10

The Claimant must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. If the Claimant does not provide the requested verification, the FIP should be placed into closure for failure to provide need documentation. BEM 230A, Page 11.

Recipients determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230A, Page 11.

DHS must serve recipients who are determined work ready with limitations by MRT, when the recipient cannot be served by PATH these recipients are considered mandatory participants and must be engaged in activities monitored by the Department. The specialist is responsible for assigning self-sufficiency activities up to the medically permissible limit of the recipient. BEM 230A, Page 12.

The evidence of record shows that after date of application, the Claimant was deferred from JET on October 17, 2012 based on her claim of disability; that she was given

medical verification form for completion by a physician; and that she did not submit it to the DHS until the date of the administrative hearing on January 24, 2013.

Claimant claims that the DHS already had past medical information of medical examinations on November 24, 2010 and July 13, 2011 (Claimant Exhibit 1); and that therefore, it was not necessary to submit the requested information on October 17, 2011.

The requested medical information after date of application and submitted for the first time at the hearing for the first time states the Claimant's condition is stable, that nowhere in the report does it state the Claimant's disability will last longer than 90 days; and that the report does not state the Claimant cannot do any work due to uncontrolled seizures (Claimant Exhibit 3, Pages 1 and 2).

Acceptable sources of medical evidence of disability must be by an MD, DO or PH.D. Any medical reports signed by a physician assistant without the report being cosigned by the acceptable source are given no evidentiary weight. BEM 260, Page 7.

The medical needs reported dated December 11, 2012 states that the form is to be completed by an MD, DO or PH.D.; that it was only signed by a PAC and not cosigned makes it an unacceptable source (Claimant Exhibit 3, Pages 3 and 4). Therefore, no evidentiary weight is given to the report.

Claimant claims she is disabled from work. That is not the issue in this case. The question is whether or not she is disabled from performing JET activities.

The DHS representative of 12 years experience testified that the purpose of the JET program is to prepare applicants/recipients with education and training for employment purposes. That the JET program works around an individual's physical and/or mental limitations, if possible.

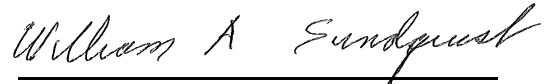
The Claimant did not make herself available for a JET evaluation of her limitations by attending the JET program.

Therefore, the Claimant has not sustained her burden of proof to establish good cause for non-participation in JET.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that good cause for JET non-participation was not established.

Accordingly, FIP/FAP termination is **UPHELD**, and so ORDERED.



William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 6, 2013

Date Mailed: February 6, 2013

NOTICE: Administrative Hearings may or der a re hearing or reconsideration on either its own motion or at t he request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 Decis ion and Order or, if a ti mely 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
Recons ideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

2013-5429/WAS

WAS/tb

cc:

