

**DEPARTMENT  
PHILOSOPHY**

DHS requires participation in employment and/or self-sufficiency-related activities associated with the Family Independence Program (FIP) or Refugee Assistance Program (RAP). Applicants or recipients of Food Assistance Program (FAP) only must accept and maintain employment. There are consequences for client, who refuse to participate in FIP/RAP employment and/or self-sufficiency-related activities or refuses to accept or maintain employment without good cause.

**DEPARTMENT  
POLICY**

The policies in this item apply to all FAP applicants and recipients age 16 and over. Noncompliance, without good cause, with employment requirements for FIP/RAP ([see PEM 233A](#)) may affect FAP if **both** programs were active on the date of the FIP noncompliance.

**Exception:** See [PEM 233C](#) for FAILURE TO MEET EMPLOYMENT REQUIREMENTS: RAP CASH. RAP clients do not have the “Last RAP” budgeted on their FAP benefits, but can be disqualified from FAP.

Michigan’s FAP Employment and Training program is voluntary and penalties for noncompliance may only apply in the following two situations:

- Client is active FIP/RAP and FAP and becomes noncompliant with a cash program requirement without good cause.
- Client is pending or active FAP only and refuses employment (voluntarily quits a job, is fired or voluntarily reduces hours of employment) without good cause.

At no other time is a client considered noncompliant with employment or self-sufficiency related requirements for FAP.

**PROCESS FOR FIP/  
RAP ASSOCIATED  
NONCOMPLIANCE**

When you learn that a client is noncompliant do the following:

- Send the DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days of the noncompliance. Check all programs that apply to the noncompliance (FIP/RAP and/or FAP) and the related penalty count that applies to each as outlined on the form.
- Enter the appropriate negative action reason code for the penalty count that applies.
- Determine FAP good cause separately from the FIP/RAP based on FAP good cause reasons defined later in this item.

- Hold the triage appointment/phone conference and document the decision on the DHS-71, Good Cause Determination form.

Always make two determinations at the triage appointment/phone conference when a FAP participant fails without good cause to comply with a cash program employment-related activity or refuses suitable employment.

- Whether or not to disqualify the noncompliant person, **and**
- Whether or not to budget the **Last FIP** grant amount. (Never budget the **Last RAP** grant amount if the noncompliant person is RAP eligible.)

See **both** sections below for further guidance:

**When To Disqualify** Disqualify a FAP group member for noncompliance when all the following exist:

- The client was **active** both FIP and FAP on the date of the FIP noncompliance, **and**
- The client did **not** comply with FIP/RAP employment requirements, **and**
- The client is subject to a penalty on the FIP/RAP program, **and**
- The client is **not** deferred from FAP work requirements (see [DEFERRALS](#) in PEM 230B), **and**
- The client did not have good cause for the noncompliance.

See [MEMBER DISQUALIFICATION](#) later in this item.

### **Budgeting “Last FIP/EFIP”**

Budget the **Last FIP** grant amount on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12 months for the third and subsequent noncompliances) after the FIP case closes for employment and/or self-sufficiency-related noncompliance. The **Last FIP** grant amount is the grant amount the client received immediately before the FIP case closed.

Budget the **Last FIP** for three or 12 months whether or not the noncompliant person is disqualified from FAP. If a FIP penalty is imposed; you must budget the **Last FIP** grant amount. Budget the **Last FIP** amount only when the client was receiving FAP on the date of the FIP noncompliance. If the client was only **applying** for FIP and violated a FIP employment and/or self-sufficiency-related requirement, the FAP grant would not be affected.

**Note:** If a noncompliant person leaves the home, the **Last FIP** remains budgeted for the duration of the FIP penalty.

Post a follow-up to remove the **Last FIP** grant from the FAP budget during the last penalty month applied on FIP.

**Example:** FIP closes with a three month penalty July 23. Budget the **Last FIP** amount for August, September and October FAP benefits only. Remove the **Last FIP** before the end of October to affect November.

Do **NOT** budget the **Last RAP** grant when imposing Refugee Assistance Program penalties. See [PEM 233C](#) for RAP penalties.

### Overlapping Negative Actions

When a client is active both FIP and FAP on the date of a FIP noncompliance **and** FIP is closing for a reason **unrelated** to noncompliance (e.g. client request) take one of the following actions:

- If the client requests closure of both FIP and FAP during the good cause determination **and** before negative action is pended, act on the unrelated FAP closure. Do not proceed with the FAP noncompliance penalties.
- If the client requests closure of FIP benefits only, but not FAP, any time during the penalty process and after the noncompliance occurred, continue to process the FAP disqualification. A minimum one or six month penalty applies. If the FIP closure is not employment and/or self-sufficiency-related, do not budget the **Last FIP Grant Amount**.

### FAP ONLY NONCOMPLIANCE

#### Refusing Employment

Non-deferred adult members of FAP households must follow certain work-related requirements in order to receive Food Assistance Program benefits.

#### Working

Disqualify non-deferred adults who were working when the person:

- Voluntarily quits a job of 30 hours or more per week without good cause, or
- Voluntarily reduces hours of employment below 30 hours per week without good cause, or
- Is fired without good cause from a job for misconduct or absenteeism (i.e. not for incompetence). Misconduct sufficient to warrant firing includes any action by a worker that is harmful to the interest of the employer, and is done intentionally or in disregard of the employer's interest, or is due to gross negligence. It includes but is

**not** limited to drug or alcohol influence at work, physical violence, and theft or willful destruction of property connected with the individual's work.

**Note:** If the job quit, reduction in hours or firing occurred **more** than 30 days **prior** to the application date, no penalty applies.

### Not Working

Non-deferred adults who are **not** working or are working less than 30 hours per week must:

- Accept a bona-fide offer of employment

**Note:** A **bona fide offer of employment** means a definite offer paying wages of at least the applicable state minimum wage.

- Follow through and participate in activities required to receive unemployment benefits (UB) **if** the client has applied for or is receiving UB.

**Note:** Determine good cause before implementing a disqualification.

### FAP ONLY PENALTIES FOR REFUSING SUITABLE EMPLOYMENT

When you learn that a client has refused suitable employment as described above, do the following:

- Send the DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance. Check the penalty that applies to the noncompliance including the related penalty count that applies as outlined on the form. An in-person meeting is not required for FAP only. If the client calls to report a job loss determine good cause while on the phone with the client or schedule a phone conference using the DHS-2444 advising the client to call within 10 days to report the reason for their action. **Do not** enter a negative action effective date until after a good cause determination has been made and there is no good cause.
- Determine FAP good cause based on FAP good cause reasons defined later in this item.
- Hold the phone conference and document your decision on the DHS-71, Good Cause Determination form.
- Enter the appropriate negative action reason code for the penalty count that applies.

**Note:** You may **not** disqualify FAP only applicants or recipients for failing to comply with Workforce Investment Act (WIA) services or any other FAP employment and training component you suggest.

## WIA AND OTHER EMPLOYMENT & TRAINING PROGRAMS

You may **not** disqualify FAP applicants or recipients for failing to comply with Workforce Investment Act (WIA) services or any other FAP employment and training component you suggest.

## MEMBER DISQUALIFICATION

Disqualifications for failure to comply without good cause are the same for FAP applicants, recipients and member adds. Evaluate each client's work requirement before imposing a disqualification. See PEM 230B [DEFERRALS](#).

- For the **first** occurrence, disqualify the person for one month or until compliance, whichever is longer.
- For a **second** or subsequent occurrence, disqualify the person for 6 months or until compliance, whichever is longer.

Count any previous FIP- or RAP-related FAP penalty as a first or subsequent occurrence.

### Applicants

For **applicants**, begin the disqualification the month after application, **even if** the failure occurred within the 30 days before the application. Use the DHS-1150, Application Eligibility Notice, to notify the client. Be sure to include all of the information included on an DHS-1605 issued for Negative Action code Y281. See also [FIP Closure Due To Noncompliance or Refusing Employment](#) earlier in this item regarding FAP applicants serving a FIP penalty.

### Member Add

The disqualification must begin the month after the new member was reported.

### Recipients

Begin the disqualification the first month possible after you determine or are notified of the failure to comply. You must give the group **timely notice**.

### Negative Action Code

Negative Action code Y280 or Y281 generate a DHS-1605 to meet all notice requirements. Do not enter an **N** for the above negative action codes.

### Manual Notification

Indicate all of the following on a manual notices (DHS-176 or a DHS-1150):

- Act of noncompliance.
- Proposed disqualification period.

- Date the FAP group or disqualified member may reapply.
- Compliance test criteria (unless working 20 hours/week).
- Deferral status as a means to establish eligibility.
- Manual policy reference(s).

### Disqualification Begin Date

Begin the disqualification the first month after the negative action period ends. If the notice is **not** sent timely, impose the full disqualification period beginning the first month possible after discovering the error.

Once begun, the month(s) of disqualification proceed consecutively and **cannot** be interrupted, even if the noncompliant person or the group becomes ineligible for another reason.

**Note:** When a member in a FAP group becomes disqualified, budget the member's income and expenses as they count toward the remaining eligible group members. See [PEM 550](#) for budgeting instructions.

### GOOD CAUSE FOR NONCOMPLIANCE

**Good cause** is a valid reason for failing to participate in employment and/or self-sufficiency-related activities or refusing suitable employment. Investigate and determine good cause before imposing a disqualification. Document the good cause determination on a DHS-71, Good Cause Determination. Good cause includes the following:

#### Deferred

- The person meets one of the deferral criteria. See [DEFERRALS](#) in PEM 230B.

#### Meets Participation Requirements

- The person meets participation requirements. See [DEFERRALS](#) in PEM 230B.

#### Wage Under Minimum

- Except for sheltered workshops, the wage offered, including tips, is less than the applicable state minimum wage.

#### Client Unfit

- The client is physically or mentally unfit for the job, as shown by medical evidence or other reliable information.

#### Health or Safety Risk

- The degree of risk to health or safety is unreasonable.

#### Illness or Injury

- The client has a debilitating illness or injury, or an immediate family member's illness or injury requires in-home care by the client.

#### Religion

- The working hours or nature of the employment interferes with the client's religious observances, convictions or beliefs.

#### Net Income Loss

- The employment causes the family a net loss of cash income.

#### No Child Care

- Child Development and Care (CDC) is needed for a CDC-eligible child, but none is adequate, suitable, affordable and within reasonable distance of the client's home or work site. See PEM 703.

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|-----------------------------------|---|
| <b>No Transportation</b>          | • Reasonably priced transportation is not available to the client.  |
| <b>Illegal Activities</b>         | • The employment involves illegal activities.   |
| <b>Discrimination</b>             | • The client experiences discrimination on the basis of age, race, disability, gender, color, national origin, religious beliefs, etc.  |
| <b>Unplanned Event or Factor</b>  | • Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities.   |
| <b>Comparable Work, Job Quits</b> | <ul style="list-style-type: none"> <li>• The client obtains comparable employment in salary <b>or</b> hours to the job that was lost.</li> </ul> <p><b>Note:</b> When a client quits a job and during the negative action period secures employment, the penalty still applies unless the new job meets the definition of comparable work above.</p>                            |
| <b>Education or Training</b>      | • The employment interferes with enrollment at least half time in a recognized education or job training program.   |
| <b>Long Commute</b>               | <ul style="list-style-type: none"> <li>• Total commuting time exceeds <ul style="list-style-type: none"> <li>•• Two hours per day, not including time to and from child care facilities, <b>or</b></li> <li>•• Three hours per day, including time to and from child care facilities.</li> </ul> </li> </ul>  |
| <b>Unreasonable Conditions</b>    | • The employer makes unreasonable demands or conditions (e.g., working without being paid on schedule).   |
| <b>Forced Move</b>                | <ul style="list-style-type: none"> <li>• The person must quit a job and move out of the county due to another group member's <ul style="list-style-type: none"> <li>•• Employment, or</li> <li>•• Employment and/or self-sufficiency-related activities, or</li> <li>•• Enrollment at least half time in a recognized education or job training program.</li> </ul> </li> </ul> |
| <b>Retirement</b>                 | • The employer recognizes the person's resignation as retirement.   |
| <b>Unkept Promise of Work</b>     | • For reasons beyond the person's control, promised employment of at least 30 hours per week (or the state minimum wage times 30 hours) does not materialize or results in less than that minimum.  |
| <b>Union Involvement</b>          | • The person must join, resign from, or refrain from joining a labor organization as an employment condition.   |
| <b>Strike or Lockout</b>          | • The work is at a site subject to a strike or lockout (not enjoined by federal law) at the time of the offer.  |

**Work Not Familiar**

- In the **first 30 days** after determined a mandatory FAP participant, the only employment offered is outside the person's major field of experience.

**REESTABLISHING  
FAP ELIGIBILITY**

A noncompliant person must serve a minimum one-month or six-month disqualification period unless one of the criteria for ending a disqualification early exists.

End the disqualification early if the noncompliant person:

- Complies with work assignments for a cash program, **or**
- Obtains comparable employment in salary **or** hours to the job which was lost, **or**
- Meets a deferral reason other than unemployment benefit (UB) application/recipient, (see [DEFERRALS](#) in PEM 230B), **or**
- Leaves the group.

When you learn and verify that the person has met any of the criteria above after a disqualification has actually taken effect, restore benefits beginning the month **after** the noncompliant person reports meeting the criteria.

**Example:** A mandatory FAP recipient reports a job quit on March 28 without good cause. The adverse action to disqualify the noncompliant person takes effect on April 13. The noncompliant person reports getting a comparable job on April 25. Since the disqualification doesn't actually take effect until May 1, and the client has met one of the criteria for ending a disqualification early, she/he should receive FAP benefits for May. If the noncompliant person did not report a new job until May 1, the FAP benefits could not be restored until June 1.

If the noncompliant person does not meet the criteria above for ending a disqualification early, a five-day, 20-hour compliance test must be completed before eligibility is regained. In addition, the minimum disqualification period must be served.

If the disqualification caused FAP closure, and all eligibility criteria for FAP eligibility are met, open the case effective the **later** of:

- The date the person agreed to comply.
- The day after the disqualification ended.
- The date of application.

**Compliance Test**

After a one-month or six-month disqualification, the noncompliant person must complete a compliance test to become eligible for FAP, **unless:**

- Working 20 hours or more per week, **or**
- Meets FAP deferral criteria (see [DEFERRALS](#) in PEM 230B).

When a disqualified client indicates a willingness to comply, provide an opportunity to test his/her compliance. Arrange for testing within 10 workdays of the contact, **provided** it is no earlier than one month before a minimum disqualification period ends. ASSIST reassigns the case if appropriate.

The test consists of five days of employment and/or self-sufficiency-related activities totaling 20 hours. A client may elect to do the test with a community service agency. If so, just verify participation.

Local offices have latitude in the design of compliance tests. Examples of activities include:

- Community Service.
- Work Experience.
- Applying for three jobs within 10 days. Use the DHS-402, "FAP Compliance Letter and Job Application Log."
- Other employment and/or self-sufficiency-related activities.

If the person completes the test, recalculate the group's FAP benefit amount with him/her included.

## LEGAL BASE

Food Stamp Act of 1977, as amended  
R400.3610 and 7CFR 272 and 273.5  
FIP 1939 PA 280