

**DEPARTMENT
PHILOSOPHY**

DHS requires clients to participate in employment and/or self-sufficiency-related activities and to accept employment when offered. Refugee contractors work with families in surmounting challenges and concerns when recipients fail, without good cause, to comply with employment requirements. If these efforts to engage recipients in participation do not succeed, clients must experience the consequences of their decisions and actions.

**DEPARTMENT
POLICY**

The policies in this item apply to failure to comply with work requirements in the Refugee Assistance Program (RAP).

This item only applies to FAP when the:

- Noncompliant person was active for both RAP and FAP on the date of the noncompliance.

Process FAP using policy in PEM 233B when RAP is closed for noncompliance or refusing suitable employment. If the noncompliant person is not a FAP recipient on the date of the RAP noncompliance, no FAP penalty applies.

When a Work Eligible Individual (WEI) fails without good cause to comply with an employment and/or self-sufficiency-related activity or refuses suitable employment, a member disqualification must be imposed. The refugee contractor works with the family to gain compliance and lift the penalty in the shortest period required.

Both applicants and recipients are penalized for **refusing suitable employment**. Only RAP recipients are penalized for **noncompliance** with an employment and/or self-sufficiency-related activity.

Note: Do **not** apply FAP penalties to RAP-FAP applicants **or** to FAP recipients applying for RAP.

**Noncompliance
with Employment
and/or Self-
Sufficiency-
Related Activities**

As a condition of eligibility WEIs in the eligible group must work or engage in activities leading to employment. Persons failing to do so are disqualified from the eligible group. Use FIP policy in PEM 228 under [“Work Eligible Individuals”](#), [“REQUIRED HOURS OF PARTICIPATION FOR WEIS,”](#) and [“TEMPORARY DEFERRALS”](#) in PEM 230A.

Noncompliance with an employment and/or self-sufficiency-related activity means any of the following:

- Failing or refusing to:
 - Comply with activities assigned to the WEI on the FSSP or other plan until the FSSP is available to contractors.

- Appear for a scheduled appointment or meeting.
- Participate in employment and/or self-sufficiency-related activities.
- Accept a job referral.
- Complete a job application.
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threats, physical abuse or other behavior disruptive 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.

Exception: An ongoing recipient who is meeting the federal work participation requirement **cannot** be penalized for noncompliance with employment and/or self-sufficiency-related activities. If the contractor terminates involvement for that reason, do **not** re-refer him/her unless s/he no longer meets the participation requirement or chooses contractor services.

Refusing Suitable Employment

As a condition of eligibility, eligible group members who are Work Eligible Individuals (WEIs) cannot refuse suitable employment up to 40 hours per week.

Refusing suitable employment means any of the following:

- Failing or refusing to appear for a job interview. See the exception below.
- Refusing a bona fide offer of employment or additional hours up to 40 hours per week, **except** for certain clients in post-secondary education (see below). The employment may be on a shift; full or part time up to 40 hours per week; and temporary, seasonal or permanent.

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

- Voluntarily reducing hours or otherwise reducing earnings.
- Quitting a job.

Exception: This does **not** include quitting a seasonal job to return to an approved, self-initiated plan for education.

- Firing for misconduct or absenteeism (i.e., **not** for incompetence).

GOOD CAUSE FOR NONCOMPLIANCE OR REFUSING EMPLOYMENT

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant WEI. A claim of good cause must be verified and documented for applicants, recipients and member adds.

Note: "[Good Cause - School Attendance](#)" in PEM 201 addresses minor parents not attending school.

Document the good cause determination on the DHS-71, Good Cause Determination form and track member disqualification penalties on FDQM.

Good cause includes the following:

Client Unfit

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

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.

Reasonable Accommodation

The DHS, employment services provider, contractor, agency, or employer fails to make reasonable accommodations for the client's disability or the client's needs related to the disability of a child or spouse.

No Child Care

The client requested child day care services (CDC) from DHS, the MWA, or other employment services provider prior to case closure for noncompliance and 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](#).

No Transportation

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

Illegal Activities

The employment involves illegal activities.

Discrimination

The client experiences discrimination on the basis of age, race, disability, gender, color, national origin or religious beliefs.

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency-related activities. Unplanned events or factors include, but are not limited to the following:

- Domestic Violence.
- Health or Safety Risk.
- Religion.
- Homelessness.

Comparable Work The client quits to assume employment comparable in salary and hours. The new hiring must occur before the quit.

Long Commute Total commuting time exceeds

- Two hours per day, **not** including time to and from child care facilities, **or**
- Three hours per day, including time to and from child care facilities.

PENALTIES FOR FAILURE TO COMPLY

The policies in this section apply to **both** noncompliance with employment and/or self-sufficiency-related activities and refusing suitable employment. A WEI who fails to meet either work requirement is **disqualified** from the eligible group.

Penalties for noncompliance with employment and/or self-sufficiency-related activities apply to RAP-FAP **recipients only**. Penalties for refusing employment apply to **RAP-FAP recipients and RAP applicants** (including work refusals up to 30 days before the application).

Note: A **member add** is considered an applicant.

Penalties for Recipient's Noncompliance or Employment Refusal

Disqualify a WEI who fails without good cause to meet employment requirements by removing the person from the eligible group. See ["Good Cause for Noncompliance or Refusing Employment"](#) in this item.

Disqualification periods are as follows:

- For the first failure, a minimum of **three months**, after which the person must participate to regain eligibility. (Use negative action code Y079).
- For the second or subsequent failure, a minimum of **six months**, after which the person must participate to regain eligibility. (Use negative action code Y080).

Begin the disqualification effective the first month possible after you determine or are notified of the failure to comply. The group must receive **timely notice** (PRG).

After three months of disqualification, CIMS sends a quarterly DHS-4768, Disqualification Information, as a reminder that the noncompliant person can end the penalty by complying.

Penalties for Applicant's/ Member Add's Employment Refusal

An applicant is ineligible if s/he refuses suitable employment without good cause within 30 days before the application date **or** while the application is pending. [See "[Good Cause for Noncompliance or Refusing Employment](#)" above.]

Begin RAP benefits no earlier than the pay period following the pay period containing the 30th day after the refusal.

Examples:

1. Client applies October 5 after being fired for absenteeism on September 28. RAP cannot begin until November 1.
2. Client applies October 5 after quitting a job on October 3. RAP cannot begin until November 16.
3. Client applies October 5 and refuses a job on October 18. RAP cannot begin until December 1. Process FAP according to policy outlined in [PEM 233B](#).

A **member add** is considered an applicant and, unless deferred or disqualified, a mandatory participant. If s/he refuses employment (including up to 30 days before the request to be added), add the person's needs no earlier than the first month after the month that includes the 30th day.

Use an DHS-1150, Application Eligibility Notice, to explain benefit denials or reductions.

Restoring Benefits

In multiple-member RAP groups, after the minimum disqualification period is served, restore RAP benefits effective the first pay period in the month following the minimum disqualification period. For single-member RAP groups follow standard application procedures. Restore FAP benefits according to policy in [PEM 233B](#).

Do all of the following to restore RAP and FAP benefits:

- Remove the disqualification code "M" on FPOS and FSOC.
- Enter the disqualification end date on FDQM.
- Issue supplemental benefits if necessary.
- Update the Employment code on ASSIST.
- Rerefer him/her to the refugee contractor.

RAP Closure Effects

When RAP closes for reasons **unrelated** to employment requirements, an ongoing disqualification may or may not be affected:

A three or six-month minimum disqualification period that has **not** expired continues during closure if:

- The period expires during closure, the disqualification ends.
- The period has **not** expired when the case reopens.

To regain eligibility the disqualified person must serve the remainder of the period and then comply.

Disqualifications are consecutive (**not** concurrent), despite case closing and reopening or transfer to a different RAP eligible group. Process FAP according to [PEM 233B](#).

EXHIBIT - FAILURE TO COMPLY (RAP)

Applicant / Member Add	Case Action	Comments
Refused suitable employment	Disqualify the RAP member. If receiving RAP medical determine continued eligibility.	See FAP penalties in PEM 233B.

Recipient	Case Action	Comments
Refused suitable employment	Disqualify the member from RAP for a minimum of three months for the first refusal and a minimum of six months for a second and subsequent refusal. If receiving RAP medical determine continued eligibility.	See FAP penalties in PEM 233B
Noncompliance with employment or self-sufficiency-related activity	Same as above	See FAP penalties in PEM 233B

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