

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS & RULES  
FOR THE DEPARTMENT OF HUMAN SERVICES**

P.O. Box 30763, Lansing, MI 48909  
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

██████████,

Claimant

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SOAHR Docket No. 2008-11379  
DHS Reg. No: 2008-11202  
Case No: ██████████

**ORDER OF RECONSIDERATION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACRS R 400.919 upon the request of the Department. The undersigned Administrative Law Judge reviewed all documentary evidence, the hearing recording, the Decision and Order, and the Request for Reconsideration.

**ISSUE**

Did the Administrative Law Judge err in assuming jurisdiction to complete a hearing and issue a decision regarding Claimant's deferral from the Jobs, Employment and Training (JET) requirement?

**FINDINGS OF FACTS**

This Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material facts:

1. On August 11, 2008, Claimant's request for hearing was received in the Department of Human Services office. Claimant requested the hearing to contest the end of her deferral from JET.
2. The Code of Federal Regulations section 45 CFR 205.10 grants a right to an evidentiary hearing for a public assistance beneficiary when the state agency intends an action to discontinue, terminate, suspend or reduce existing assistance to the beneficiary. The end of a JET deferral is not an action that constitutes a right to fair hearing.
3. On December 15, 2008, Administrative Law Judge Jonathan Owens completed a fair hearing for Claimant despite having no jurisdiction to conduct a fair hearing on the issue of being referred back to JET.

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4. On January 6, 2009, Administrative Law Judge Owens issued a Decision and Order in which the Administrative Law Judge reversed the Department of Human Services' (DHS) "sanction" of Claimant's FIP case.
5. On January 22, 2009, the State Office of Administrative Hearings and Rules, Administrative Hearings for the Department of Human Services received the Department's Request for Rehearing/Reconsideration.
6. On March 18, 2009, the State Office of Administrative Hearings and Rules, Administrative Hearings for the Department of Human Services issued an Order of Reconsideration.
7. ALJ Owens's Findings of Fact #1 through #5 from the Decision and Order mailed January 6, 2009, are incorporated by reference.

### **CONCLUSIONS OF LAW**

The Family Independence Program (FIP) program was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, 8 USC 601, *et seq.* The Code of Federal Regulations was promulgated to enforce and implement programs related to PRWORA. The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.* Agency policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

Prior to August 2008, Claimant was deferred from participating in JET. In or before August 2008 Claimant's FIP case was subject to review. As a result of the review Claimant was referred back to JET and Work First (WF). Claimant submitted a request for hearing based on the referral to JET/WF, which was received in the Department of Human Services office on August 11, 2008. Claimant requested the hearing to contest the end of her deferral from JET.

DHS did not terminate, suspend, or reduce Claimant's FIP services. After Claimant filed her August 11, 2008, request for hearing Petitioner mailed a medical needs form to Claimant.

The Code of Federal Regulations sections 45 CFR 205.10 grants a right to an evidentiary hearing for a public assistance beneficiary when the state agency intends an action to discontinue, terminate, suspend or reduce existing assistance to the beneficiary. The end of a JET deferral, because it is not an action that discontinues, terminates, suspends or reduces existing assistance, does not constitute a right to fair hearing.

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Department policy reflects the federal parameters on the right to an evidentiary hearing and provides clarification:

## **REQUEST FOR DELAYED REFERRAL TO EMPLOYMENT SERVICES**

### **Deferral Not Granted**

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**Note:** When a deferral is not granted, it is not a loss of benefits, termination or negative action. When a client requests a hearing based on not being granted a deferral, be sure to advise the client at the prehearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. Be sure the client understands that the right time to file a hearing is once they receive a notice of negative action for noncompliance.

*DHS PEM 230A, 10-1-08, pp 19-20 of 27.*

Applying Department policy to Claimant's case demonstrates that the end of her JET deferral and her referral back to JET/WF was not an action that constituted a right to fair hearing.

Administrative Law Judge Jonathan Owens erred when, on December 15, 2008, he completed a fair hearing for Claimant. At the outset of the hearing the DHS representative testimony established that at the time Claimant's request for hearing was received Claimant had only been referred to JET and the DHS had taken no action. Administrative Law Judge Owens erred because he did not possess jurisdiction to conduct a fair hearing on the issue of being referred back to JET. Administrative Law Judge Owens further erred because he issued a January 6, 2009, Decision and Order, despite having no jurisdiction to hold the hearing from the outset.

The Department is bound to implement the FIP program in accordance with the provisions of the Code of Federal Regulations. An ALJ is also bound by the Code of Federal Regulations, including complying with the criteria for jurisdiction to conduct a fair hearing.

Pursuant to the Code of Federal Regulation section 45 CFR 205.10, the ALJ's January 6, 2009, Decision and Order is reversed. The Claimant's August 11, 2008, request for hearing is dismissed because it does not meet the fair hearing threshold of discontinuation, termination, suspension, or reduction of previously authorized assistance.

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**DECISION AND ORDER**

This Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Administrative Law Judge's January 6, 2009, Decision and Order be reversed.

**IT IS THEREFORE ORDERED** that:

1. The Administrative Law Judge's decision dated January 6, 2009, is REVERSED.
2. The Claimant's August 11, 2008, request for hearing is DISMISSED.

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Martin D. Snider  
Administrative Law Judge  
for Michigan Department of Human Services

cc:

[REDACTED]

Date Signed: April 30, 2009  
Date Mailed: May 1, 2009

**\*\*\*Notice\*\*\***

The Claimant may appeal this Rehearing Decision to Circuit Court within 30 days of the mailing of this Rehearing Decision.