

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],  
Claimant

Reg. No: 2009-36483  
Issue No: 1038  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
October 20, 2009  
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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. After due notice, a telephone hearing was held on October 20, 2009. Claimant personally appeared and testified. Claimant was represented by [REDACTED].

ISSUE

Did the department correctly take action to terminate claimant's Family Independence Program (FIP) benefits in June, 2009?

FINDINGS OF FACT

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

1. Claimant was a FIP recipient and a mandatory Jobs, Education and Training (JET) participant when the department received information from JET staff that she was in non-compliance with program requirements.

2. On May 16, 2009, department mailed the claimant a Notice of Noncompliance telling her that she failed to start JET/Work First program on May 11, 2009, and scheduling a triage appointment for May 21, 2009, to discuss claimant's reasons for noncompliance.

3. Claimant called on May 11, 2009, stating she was very ill and could not start at JET, and would like another start date. A Good Cause Determination form for triage appointment of May 21, 2009, stated that the claimant is breast feeding so she did not want to go to JET.

4. On May 22, 2009, claimant provided a note from her doctor saying that she was seen on May 11, 2009 and that she may return to work on May 12, 2009. Department accepted this note as a valid excuse for claimant's failure to attend JET on May 11, 2009, and rescheduled a JET start date to June 22, 2009.

5. Claimant failed to start JET on June 22, 2009. On June 29, 2009, another Notice of Noncompliance was mailed to the claimant scheduling a triage appointment for July 2, 2009.

6. Claimant attended the triage appointment and stated she was only a few minutes late to JET even though she thought she had left in plenty of time to get there. Department found no good cause for claimant's JET noncompliance.

7. On June 29, 2009, department mailed the claimant a Notice of Case Action telling her that her FIP benefits will terminate effective August 1, 2009, as she has, for at least the third time, failed to participate in employment and/or self-sufficiency-related activities. Claimant would not get FIP benefits from August 1, 2009 through July 31, 2010.

8. On July 7, 2009, claimant requested a hearing. Claimant stated that she had left her house before 8 AM to get to JET and "felt" she had arrived there before the 8:30 AM start

time, but by the time she got her 6 month old son out of the car in his carrier and carried him up 2 flights of stairs and then up to the 6<sup>th</sup> floor she was at most 2 minutes late and was turned away.

9. Claimant also pointed out that losing her cash assistance would be detrimental to her children as she receives no support from their father. Claimant further stated that she does not have a driver's license.

### 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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

That the claimant was a mandatory JET participant is not in dispute, and this issue was not contested by the claimant or her representative. BEM 230A. That the claimant must participate in the JET activities as assigned or face possible sanctions if she fails to do so without good cause is also not in dispute. BEM 233A.

Claimant's attorney, first attempts to discuss claimant's previous JET sanctions that took place in 2007 and 2008 to prove that they were apparently done incorrectly. This Administrative Law Judge advised that she cannot address these past issues. 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 400.901-951. Any hearing request which protests a denial, reduction, or termination of benefits must be filed within 90 days of the mailing

of the negative action notice. MAC R 400.902; MAC R 400.903; MAC R 400.904. Therefore, issues claimant may have had with department's actions in 2007 and 2008 cannot be addressed at this October, 2009 hearing.

Claimant then testified that she was only a few minutes late for the JET appointment on June 22, 2009. This Administrative Law Judge is familiar with JET practices and that participants are required to report **on time**. Therefore, if the claimant was late she was not in compliance with JET program requirements.

Claimant's second issue is she does not have a driver's license. JET notes provided for this hearing indicate that in early 2008 claimant was repeatedly referred for a driver's test and kept rescheduling it. JET note of May 12, 2008, indicates that the claimant has been rescheduled for such test at least 3 times, but then stated she could find the location of the testing office. Therefore, the fact that the claimant does not have a driver's license cannot be a valid excuse for JET noncompliance, as it is claimant's own choosing not to get such a license.

Claimant's third issue is that she has anxiety issues when she is in a car. Claimant admits never reporting these type of issues to either the JET staff or the department. When asked if she is in counseling for such issues, claimant states she was a year ago, but then she went to Texas with her boyfriend. In order for a person to be exempt from JET program they must notify the department of any health problems they feel they have that prevents participation. Then such a person must provide medical records for review and possible approval of such deferral. Claimant did not do so.

Claimant's fourth issue is that she is breast feeding. Claimant stated that the father of her children does not want to support them. It appears that claimant has no other sources of income and depends on FIP totally in order to care for her children. While the claimant would be free to

stay home and breast feed her baby if she was to have other means of support, federal and state government unfortunately expects that once her child is 3 months of age she must participate in work programs if she wants to receive cash assistance.

This is claimant's third JET sanction and it cannot be said that she is not familiar with the rules of this program, and also with the FIP sanctions for noncompliance. Claimant was required to be on time for her JET activity, but did not report as required. Claimant's reason for not doing so is not valid good cause. Department's proposed FIP termination must be therefore upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly took action to terminate claimant's FIP benefits in June, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ \_\_\_\_\_  
Ivona Rairigh  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: October 28, 2009

Date Mailed: October 29, 2009

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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 the Decision and Order to Circuit Court within 30 days of the mailing 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.

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