

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.: 2010-13446

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 3, 2010

Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon pursuant to MCL 400.9; MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on March 3, 2010. Claimant appeared and testified. [REDACTED], Specialist, and [REDACTED], Manager, appeared on behalf of DHS.

ISSUE

Whether DHS properly closed Claimant's Family Independence Program (FIP) benefits case for non-compliance with employment related activities?

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 an ongoing recipient of FIP benefits who participated in the Job, Education and Training (JET) program.
2. JET notified the department that Claimant was not fulfilling the required weekly hours of participation in the program.

3. At the time of Claimant's JET participation, Claimant was a caretaker of eight children.
4. Claimant initially attended JET using a day care provider for her children that was within walking distance of her residence.
5. In early 8/2009, Claimant subsequently missed approximately 4 weeks of JET due to issues involving losing her shelter which also affected her ability to take her children to day care.
6. On 8/31/09, JET offered Claimant a 10 day compliance test to avoid non-compliance.
7. In 9/2009, Claimant completed nine of ten days of her compliance test by utilizing bus tickets provided by JET to travel to and from JET.
8. JET was unable to assist Claimant with attendance on the tenth day of Claimant's compliance test because JET exhausted their supply of bus tickets.
9. Claimant failed to attend the tenth day of her compliance test due to a lack of transportation and income to purchase bus tickets.
10. A triage was held on 11/12/09 which found Claimant lacked good cause for her failure to attend JET.
11. DHS pended closure on Claimant's FIP on 11/18/09 with a closure date of 11/30/09.
12. Claimant requested a hearing on 12/1/09 seeking reinstatement of her FIP benefits.

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 Dependant Children (ADC) program effective October 1, 1996. Department

policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM).

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP group to participate in the JET program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. BEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. PEM 230A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months. BEM 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities that are based on factors that are beyond the control of the noncompliant person.

Claimant asserted two arguments regarding good cause for her four week absence from JET in 8/09. Claimant stated her absence was due to loss of housing and day care issues. BEM 233A cites unplanned events such as homelessness and a lack of child care due to inability to

find a suitable day care provider as appropriate reasons for good cause for failure to attend JET. Claimant credibly testified that she was unable to attend JET due to a loss of housing which also prevented her from utilizing her previous day care provider. Claimant stated because she had to move in with her mother, she was no longer within a reasonable walking distance to take her children to the day care provider's house. Claimant indicated while living with her mother that she would not be able to use her mother's house as a location for the day care of her children. Claimant's options of day care providers were severely hampered by Claimant's circumstances of being the sole caretaker for eight children, lacking employment, living at the residence of another and lacking a vehicle. It is found Claimant had good cause for her failure to attend JET for four weeks in 8/09 based on Claimant's inability to find an appropriate day care provider.

Claimant was also given a compliance test beginning in 9/09. Claimant's undisputed testimony was that she attended nine of ten days of a compliance test and only missed the tenth day due to lacking the means to pay for bus tickets and JET's inability to provide free bus tickets. BEM 233A indicates a lack of transportation is a reason for good cause for an absence from JET if, "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." Claimant requested bus tickets from JET and was denied. The undersigned finds that reasonably priced transportation was not available for Claimant. Claimant reasonably relied on JET to provide bus tickets. For nine days, Claimant requested and received bus tickets from JET. Claimant had no reason to believe that she would need money to buy her own bus tickets for the tenth day of her compliance test. Thus, it is found that reasonably priced transportation was not available to Claimant for her to attend the tenth day of her compliance test. Claimant established good cause for not completing her compliance test.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant had good cause for not meeting JET participation requirements. Accordingly, the Department's FIP determination is REVERSED. DHS shall begin the process to redetermine Claimant's FIP benefits back to 12/2009 with the finding that Claimant was compliant with JET activities and reimburse Claimant for any benefits lost resulting from the FIP closure.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/29/2010

Date Mailed: 3/29/2010

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 60 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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