

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.: 2010-28043
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 15, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 15, 2010. Claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly found Claimant's Family Independence Program (FIP) group noncompliant in participation with Jobs, Employment and Training (JET). Whether DHS properly found Claimant's Food Assistance Program (FAP) group noncompliant with employment related activities resulting in closure of FAP benefits.

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 FIP and FAP recipient.

2. [REDACTED] was part of Claimant's FIP group as the father of Claimant's child.
3. [REDACTED] missed at least 12 hours of JET activities in 10/2009.
4. A triage was held on 11/20/09 in which Claimant failed to attend and good cause was not found for Claimant's absences.
5. DHS terminated Claimant's FIP benefits effective 2/1/10 due to noncompliance with JET activities
6. DHS also closed Claimant's FAP benefits after finding at least one member of Claimant's FAP group noncompliant with employment related activities.
7. Claimant submitted a hearing request on 3/17/10 regarding termination of FIP benefits due to JET noncompliance and termination of FAP benefits in part due to the finding of JET noncompliance.

CONCLUSIONS OF LAW

FIP Benefits

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 (formerly known as the Family Independence Agency) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Federal and State laws require each work eligible individual (WEI) in a FIP group to participate in JET or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A. All WEIs who fail, without good

cause, to participate in employment or self-sufficiency-related activities will be penalized. Failure to appear at a JET program results in noncompliance. *Id.* A WEI's absence may be excused up to sixteen hours in a month. BEM 233A.

In the present case, DHS presented notes made by worker from JET to establish that Claimant was noncompliant. The notes clearly alleged that [REDACTED] was absent from JET for 12 hours as of 10/9/2009. The notes go on to allege an absence on 10/12/09 for an unspecified amount of time and failure by [REDACTED] to submit a job search log. However, the notes do not indicate how many hours that Claimant was absent on 10/12/09. DHS testified that they "assumed" that the absence for 10/12/09 was for at least 5 hours which would have caused an excess of 16 hours of absences for the month. The DHS assumption is logical; however, it is speculation without first-hand knowledge to support it.

Further, the listed absences from 10/20/09 are not supported by the notes. For example, Claimant was allegedly absent on 10/2/09, 10/5/09 and 10/6/09, yet there is no entry for those dates regarding Claimant's absence on each date.

DHS is typically given some discretion in presenting documents completed by JET workers at administrative hearings. Though such documents could be inadmissible as hearsay, DHS is generally allowed to submit the documents to prove noncompliance despite the JET worker not being presented as a witness. However, in exchange for such discretion, the notes should be thorough and consistent. In the present case, the JET worker notes are found to be unreliable to establish noncompliance, particularly when not supported by first-hand testimony. It is found that DHS failed to establish that Claimant was noncompliant with JET activities.

FAP Benefits

The Food Assistance Program (formerly known as the Food Stamp program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS testified that Claimant's FAP benefits were terminated due to the finding of noncompliance with JET activities. Because this decision finds that Claimant's FIP group was not noncompliant with JET activities, it is appropriate for DHS to reevaluate Claimant's eligibility for FAP in consideration of the updated finding.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP and FAP benefits. It is ordered that DHS evaluate Claimant's eligibility for FIP and FAP benefits back to the date of FIP closure under the finding that Claimant's FIP group was compliant with JET activities. DHS is also to remove any history of FIP or FAP disqualification stemming from the DHS finding of noncompliance.



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

Date Signed: 5/10/2010

Date Mailed: 5/10/2010

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 receipt 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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