

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.: 2010-29274
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 26, 2010
Wayne County DHS (17)

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 17, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, [REDACTED] Specialist, and [REDACTED], JET Worker for ACCESS, appeared and testified.

ISSUE

Whether DHS properly closed Claimant's Family Independence Program (FIP) benefits due to noncompliance with Jobs, Employment and Training (JET) 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 FIP benefit recipient.
2. Claimant was an ongoing JET participant at ACCESS.
3. Claimant stopped attending JET approximately 6/26/2009.

4. A triage was held on 2/16/10 due to Claimant's absence from JET.
5. As part of the triage agreement, Claimant was given a 10 day compliance test to attend JET beginning 2/23/10.
6. Claimant was absent from JET on 2/24/10 and 2/25/10.
7. On 3/15/10, DHS initiated closure of Claimant's FIP benefits due to noncompliance with JET activities.
8. Claimant submitted a hearing request on 3/26/10 regarding closure of 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 (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 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 work eligible individuals (WEI) who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. BEM 233A. Failure to appear at a JET program results in noncompliance. *Id.* The penalty for noncompliance without good cause is FIP closure. *Id.* at 6.

DHS alleges that Claimant was absent from JET activities beginning 6/26/2009. Claimant and her witness testified that Claimant attended JET until 8/2009 when she was only absent due

to injuries sustained in a vehicle accident. There were no apparent inconsistencies in Claimant's testimony, however, there was no documentary proof supporting Claimant's testimony. The JET Worker credibly testified that Claimant was absent from JET in 7/2009 and that Claimant provided no explanation for the absence. It was also shown that unsuccessful attempts were made to contact Claimant regarding her absence. The JET case notes supported the testimony of the JET Worker. It is found that Claimant was noncompliant with JET activities by being absent from JET in 7/2009.

Despite the several month absences from JET, Claimant could continue her FIP benefits if she completed a 10 day compliance test beginning 2/23/2010. Claimant testified that she attended JET on 2/24/2010 and 2/25/2010; DHS disputed Claimant's testimony. Sign-in sheets for 2/24/10 and 2/25/10 for JET were presented as exhibits; the sheets lacked Claimant's signature. Based on the testimony and the supporting sign-in sheets, it is found that Claimant did not attend JET on 2/24/10 or 2/25/10 and thereby failed her compliance test.

The testimony of the JET Specialist was consistent and credible. Claimant pointed out apparent inconsistencies in the testimony of DHS and JET witnesses. One example was that Claimant had her non-compliance notice signed by a JET worker which would appear to show that Claimant was not absent from JET in 2/2010. The testimony and case notes indicated that Claimant attended JET on 2/26/10 to report employment. Thus, Claimant's proof did not establish that she attended JET on 2/24/10 and 2/25/10.

Claimant's new employment might be a factor in compliance. Claimant reported employment to JET on 2/26/10. Testimony from JET indicated the employment was part-time and completely commission based. Though Claimant's employment could conceivably negate a finding of noncompliance, it is found that DHS properly did not negate the noncompliance. BEM

233A states employment of forty hours per week is good cause for noncompliance. Claimant testified her employment was for approximately 20 hours per week. Thus, the employment cannot be considered good cause for noncompliance. Further, Claimant did not allege that her employment was related to her absence. There was no evidence that Claimant was employed at the time of her JET absences. It is found that Claimant was noncompliant with JET activities.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefits due to noncompliance with JET activities.

Christian Gardocki

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

Date Signed: 5/4/2010

Date Mailed: 5/4/2010

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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