

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.: 2010-29666
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 2, 2010
Oakland County DHS (4)

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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 2, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly closed Claimant's Family Independence Program (FIP) benefits due to Claimant's failure to attend Jobs, Education and Training (JET) program.

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 benefits recipient.
2. Claimant was absent from JET for an unspecified amount of hours on 3/1/10, 3/4/10 and 3/5/10. Exhibit 2.

3. DHS mailed Claimant a Notice of Noncompliance on 3/8/10 due to alleged disruptive and abusive behavior. Exhibit 5.
4. DHS found Claimant did not have good cause for the alleged noncompliance at a 3/18/10 triage.
5. On 3/24/10, DHS mailed Claimant a Notice of Case Action terminating Claimant's FIP benefits beginning 5/1/10.
6. Claimant submitted a hearing request on 4/2/10 disputing the closure of FIP benefits and finding of noncompliance by DHS.

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).

FIP provides temporary cash assistance to support a family's movement to self-sufficiency. FIP recipients 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 a FIP group to participate in the JET or other employment-related activities unless deferred or engaged in activities that meet participation requirements. BEM 230A at 1

Failure to participate with JET may result in a finding of noncompliance unless a WEI can establish good cause for the failure. BEM 233A at 2. A client's JET participation may be

interrupted by occasional illness or unavoidable event; the absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. BEM 230A at 22. For those clients believed to be noncompliant with JET participation, DHS is to hold a triage to provide the opportunity to the WEI to establish good cause for the lack of JET participation. *Id* at 7. If good cause is established for the absence then the client returns to JET for continued participation. If the WEI fails to establish good cause then DHS may initiate closure of the client's FIP benefits including a period of disqualification.

DHS alleged at the hearing that Claimant missed 20 hours of JET participation within an unspecified 2 week period. Exhibit 4. JET case notes indicate Claimant missed 3/1/10, 3/4/10, 3/5/10 and 3/6/10 for a total of 20 hours. Exhibit 2. The JET notes were dated 3/5/10. DHS was unable to explain how JET could document Claimant as absent on 3/6/10 before she was absent.

Another issue with the DHS finding of noncompliance had to do with the Notice of Noncompliance (DHS-2444). Exhibit 5. The DHS-2444 lists the reason for noncompliance and gives notice to the client of the triage date, time and location. The DHS-2444 mailed to Claimant listed the reason for noncompliance as "disruptive/abusive behavior". DHS was unable to testify to any first-hand knowledge of Claimant's allegedly disruptive behavior. The submitted JET notes had some documentation alluding to Claimant's allegedly disruptive behavior.

JET worker notes are generally allowed as a business record, an exception to hearsay, regarding dates and times of a client's JET absences. Dates and times of attendance are not subjective; either a client attended JET or did not. Documentation of absences is routinely kept in JET's ordinary course of business and tends to be a reliable source of information. Calling a client disruptive is a completely subjective conclusion and should have supporting testimony to explain how and why the conclusion was reached. JET does not routinely maintain

documentation of a Claimant's behavior within the ordinary course of their business. Thus, it is found that the JET notes concerning Claimant's allegedly disruptive behavior are properly considered hearsay and not admissible to establish noncompliance.

The JET notes also did not specify which hours that Claimant was allegedly absent for each date. Claimant cannot establish good cause for an absence without knowing the specific times she was allegedly absent. Based on the aforementioned issues, it is found that DHS failed to establish noncompliance by Claimant.

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 benefits. It is ordered that DHS reinstate Claimant's FIP benefits back to the date of FIP closure and remove the accompanying disqualification from Claimant's disqualification history.



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

Date Signed: 6/11/2010

Date Mailed: 6/11/2010

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 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 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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