

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.: 2010-37103
Issue No.: 1015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 23, 2010
Wayne County DHS (19)

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 23, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) 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 Extended FIP recipient.
2. As an Extended FIP recipient, Claimant received \$10/month in FIP benefits.
3. Claimant reported and verified a loss of employment income to DHS in late 1/2010.

4. DHS sent Claimant an appointment to begin participation with Jobs, Education and Training on February 1, 2010.
5. Claimant attended her appointment but was referred back to DHS because DHS failed to properly provide JET with notice of Claimant's appointment.
6. DHS failed to timely process Claimant's reported stoppage of employment income.
7. Had DHS processed Claimant's employment income reduction, Claimant would have received the maximum FIP benefit amount for a two-person group, \$403/month.
8. Claimant submitted a hearing request on 2/14/10 regarding the failure by DHS to process Claimant's change in income.

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. For those clients believed to be noncompliant with JET participation, DHS is to hold a triage to provide an opportunity for 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

Claimant contended that she should have received more than \$10/month in FIP benefits beginning 2/2010 after reporting and verifying stopped employment income in 1/2010. The DHS contention was less clear. DHS seemed to testify that the failure to increase Claimant's FIP benefits was partially due to Claimant's noncompliance with JET participation and partially due to a failure by Claimant to verify the employment income change.

Regarding the issue of Claimant's lack of JET participation, it is not disputed that Claimant only did not participate with JET due to error by DHS. Claimant attended the only appointment that DHS made for her to attend JET. JET turned away Claimant and referred her back to DHS because DHS did not register the appointment. DHS never resent Claimant to JET after the initial appointment. It is found that Claimant's failure to participate with JET is solely due to error by DHS; accordingly, Claimant was not noncompliant with JET participation and Claimant's FIP benefits should not be adversely affected by such a finding.

DHS' own Hearing Summary conceded administrative error was the reason Claimant's FIP benefits were not increased. For good measure, as part of the Hearing Summary, DHS included a Verification of Employment which tended to prove that Claimant verified her employment stoppage.

DHS hinted that Claimant's reporting may have been otherwise insufficient. There are multiple problems with this contention. The original reason for not increasing the benefits was due to Claimant's failure to attend JET. DHS may not amend the basis for the original action as they further investigate.

DHS also testified that Claimant's FIP benefits could be affected because of why Claimant lost her employment. The Employment Verification submitted by Claimant indicates that she was fired. Termination for misconduct or absenteeism is considered refusing suitable employment which is considered noncompliance. BEM 230A at 3. DHS has yet to adversely affect Claimant's FIP benefits based on the employment termination. Had DHS attempted to reduce or terminate Claimant's FIP benefits prior to the hearing, the issue may have been properly before the jurisdiction of the undersigned; because DHS did not, the issue is properly dismissed.

The document used to verify Claimant's employment stoppage was dated as mailed to Claimant on 1/21/10. Claimant credibly testified that she timely returned the document; DHS did not allege that Claimant was untimely in returning the verification. It is found that Claimant timely verified her employment income stoppage.

Income decreases that result in a FIP benefit increase must affect the month after the month the change is reported or occurred, whichever is earlier, provided the change is reported timely. BEM 505 at 8. In the present case, Claimant reported and verified the income decrease in 1/2010. It is found that 2/2010 is the effective month for processing the employment income decrease.

Had DHS timely processed the change, Claimant would have received \$403/month in FIP benefits, the maximum amount of FIP benefits for a two person group. RFT 210. It is found that this is the amount to which Claimant is entitled to receive.

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 failed to rebudget Claimant's FIP benefits based on the verified reduction in employment income.

It is ordered that Claimant is entitled to \$403/month in FIP benefits beginning with benefit month 2/2010. DHS shall supplement Claimant's FIP benefits accordingly.

Christian Gardocki

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

Date Signed: 6/29/2010

Date Mailed: 6/29/2010

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 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.

CG/jlg

cc:

