

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201043734
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 16, 2010
Office: Macomb County DHS (20)

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 held on August 16, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, and [REDACTED], JET Case Manager, appeared and testified.

ISSUE

Whether DHS properly closed Claimant's Family Independence Program (FIP) benefits and reduced Claimant's Food Assistance Program (FAP) benefits due to a FIP group member'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 and FAP recipient.
2. Claimant is part of a FIP group which includes herself, her child and her child's father [REDACTED].
3. [REDACTED] is the only FIP group member required to attend JET.
4. Claimant voluntarily attends unpaid dog grooming training.
5. In approximately 2/2010, Claimant applied for CDC benefits but was denied by DHS for failing to verify her dog grooming activity.

6. On 4/23/10, [REDACTED] reported to JET that his vehicle was inoperable and that he would be unable to attend JET until the vehicle was repaired.
7. [REDACTED] failed to attend JET on 5/3/10 for two hours, 5/5/10 for two hours, 5/7/10 for six hours and 5/10/10 for six hours.
8. [REDACTED] failure to attend JET was related to an alleged lack of child care and transportation to attend JET.
9. Prior to Claimant's JET absences, JET provided bus tickets to [REDACTED] but he refused the bus tickets because he did not feel it was appropriate to take his two children (ages 2 y/o and 3 y/o) on the bus due to safety concerns for his children.
10. DHS scheduled an appointment for [REDACTED] to attend triage; the triage was to be held on 5/26/10.
11. Claimant and [REDACTED] failed to attend the 5/26/10 triage appointment.
12. DHS subsequently determined that [REDACTED] lacked good cause for failing to attend JET and that he was noncompliant with JET participation.
13. On 6/2/10, DHS scheduled a reduction in Claimant's FAP benefits and termination of FIP benefits due to noncompliance with JET requirements; the FAP reduction and FIP termination was effective 7/1/10.
14. Claimant requested a hearing on 6/8/10 disputing the finding that [REDACTED] was noncompliant with JET participation requirements.

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. BEM 230 at 1. 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 Jobs, Education and Training (JET) or other employment-related activities unless deferred or engaged in activities that meet participation requirements. *Id.*

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.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for FIP benefit recipients. BEM 233A at 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.* at 4.

In the present case, DHS sanctioned Claimant's FAP and FIP benefits due to a failure by her child's father to attend JET on four days in 5/2010. Claimant gave two explanations for [REDACTED] absences, a lack of child care and a lack of transportation.

Though lack of child care is a basis for good cause, Claimant's circumstances do not amount to good cause. DHS policy requires that if a client lacks child care, good cause can be found if the child care is not suitable, appropriate affordable or within a reasonable driving distance. Claimant applied for CDC benefits around the time that [REDACTED] began with JET. Though Claimant testified she participated in training involving the grooming of dogs, she failed to verify this activity with DHS when she applied for CDC benefits. As a result, her CDC benefits were denied for failing to verify a need for the CDC benefits. Claimant could have had affordable, suitable and appropriate child care within a reasonable driving distance had she timely verified her dog grooming training. The undersigned cannot find good cause for a lack of child care when Claimant's failure to verify the need caused the lack of child care.

Claimant's other explanation for [REDACTED] JET absences involved a lack of transportation. The circumstances for "no transportation" as a basis for good cause is described as, "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.”

In the present case, it is not disputed that [REDACTED] vehicle was in need of repair. JET paid for the vehicle repair and [REDACTED] picked up the repair check from JET on 5/7/10. DHS contends that even during the time when his vehicle was inoperable, [REDACTED] had the opportunity to attend JET via public transportation paid for by JET. Claimant testified that [REDACTED] was responsible for transporting the children to day care on days when [REDACTED] attended JET. [REDACTED] declined the offer of bus passes because he did not feel it was appropriate to transport his two and three year old children on public transportation. Claimant’s JET absences are probably better described as being caused by an unplanned event, the loss of motor vehicle needed to transport children, rather than a lack of transportation.

The DHS response to Claimant’s lack of JET attendance was reasonable. DHS and/or JET excused Claimant from JET for a few days when Claimant’s vehicle became inoperable, paid for Claimant’s vehicle repair and offered bus tickets to Claimant until Claimant’s vehicle was repaired. Claimant did not help her case by failing to attend the triage which was scheduled at a time when Claimant’s vehicle was operable.

Claimant’s response to the proffered bus tickets was also reasonable. Claimant’s child’s father was expected to transport a two year and a three year old on public transportation instead of waiting just a few days to allow for Claimant’s vehicle to be repaired. Though JET participation is a requirement for FIP benefits, Claimant’s child’s father’s absence from JET was mostly attributable to the lack of personal vehicle. The decision was also influenced by the evidence which established that David consistently attended JET prior to the 5/2009 absences caused by the lack of vehicle.

Though it was a close call, it is found that Claimant’s child’s father had good cause for failing to attend JET and that DHS improperly found the FIP group to be noncompliant. Accordingly, it is also found that DHS improperly terminated Claimant’s FIP benefits and reduced Claimant’s FAP benefits.

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 and reduced Claimant’s FAP benefits on the basis of noncompliance with JET participation. It is ordered that DHS: reinstate Claimant’s FIP and FAP benefits to the amounts immediately prior to the finding of noncompliance, supplement Claimant for any loss in benefits as a result of the noncompliance finding

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and to remove the noncompliance disqualification from Claimant's disqualification history.

/s/ Christian Gardocki
Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: September 1, 2010

Date Mailed: September 1, 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 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.

CG/ hw

cc:

[REDACTED]