

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.: 201051846
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 27, 2010
Office: 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 held on September 27, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance based on excessive absences from 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 recipient assigned to participate with JET.
2. As of 3/2010, Claimant was assigned to participate in a community service program with [REDACTED] two times per week.
3. Claimant failed to attend both of her scheduled days with [REDACTED] during the weeks beginning 3/22/10 and 3/29/10. Exhibit 1.
4. A triage was held on 5/6/10 concerning Claimant's lack of JET participation.

5. At the triage, Claimant stated she was pregnant with a due date of 10/19/10 and that she did not attend her community service requirements because her back hurt and she became dizzy.
6. Claimant was given until 5/7/10 to submit verification of her excuse for failing to attend community service.
7. Claimant failed to submit any verification concerning her why she failed to participate with JET.
8. On an unspecified date, DHS terminated Claimant's FIP benefits due to the finding that Claimant was non-compliant with her JET participation requirements (Exhibit 2) and failed to verify good cause for her absence.
9. Claimant requested a hearing on 8/30/10 disputing the termination of her 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 (DHS), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A at 1. As a condition of eligibility, all work eligible individuals (WEIs) must engage in employment and/or self-sufficiency related activities. *Id.* The WEI is considered non-compliant for failing or refusing to appear and participate with JET or other employment service provider. *Id.* at 2.

Note that DHS regulations do not objectively define, "failure or refusing to appear and participate with JET". Thus, it is left to interpretation how many hours of JET absence constitute a failure to participate.

In the present case, JET required Claimant to attend St. Vincent DePaul as part of Claimant's community service requirement. During the weeks beginning 3/21/10 and 3/28/10, Claimant was assigned to perform community service on 3/22/10, 3/26/10, 3/29/10 and 4/2/10. Claimant failed to attend all four dates she was scheduled. Missing four consecutive dates of JET participation is an appropriate basis to find noncompliance. It is found that DHS properly determined that Claimant was non-

compliant with JET participation based on missing four consecutive days of JET participation.

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. *Id* 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. A claim of good cause must be verified. *Id* at 3.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id* at 7. In processing a FIP closure, DHS is required to send the client a notice of non-compliance (DHS-2444) which must include: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration *Id* at 8. In addition, a triage must be held within the negative action period. *Id*. If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id*.

Failure to comply with JET participation requirements without good cause results in FIP closure. *Id* at 6. The first and second occurrences of non-compliance results in a 3 month FIP closure. *Id*. The third occurrence results in a 12 month sanction. *Id*.

In the present case, DHS scheduled a triage for Claimant on 5/6/10. Claimant attended the triage meeting and asserted to DHS that she failed to attend [REDACTED] because of back and dizziness issues related to Claimant's pregnancy. It was not disputed that Claimant was pregnant during the time she was found to be non-compliant. Pregnancy, by itself, is not an automatic basis for good cause for absence from JET. Though Claimant may have suffered from some illness related to pregnancy, Claimant must verify the illness, not simply the pregnancy.

Claimant contended that she submitted verification of her illness to DHS on 5/7/10. Claimant indicated that she submitted the verification in the DHS office drop-box. The drop-box is a box located in the DHS lobby which allows clients to submit documents without having to see their assigned specialist. The drop-box log allows clients to sign their name when they drop off documents so there is some record of the submission.

During the hearing, the DHS representative retrieved the drop-box log from 5/7/10 so Claimant could attempt to find her signature' Claimant was unable to find her signature from 5/7/10. Claimant also failed to bring any verification of her good cause to the administrative hearing. Based on Claimant's lack of evidence concerning good cause, it is found that DHS properly did not find that Claimant had good cause from her failure to

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participate with JET. Accordingly, it is found that DHS properly terminated Claimant's FIP benefits due to Claimant's non-compliance with JET participation.

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

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

Date Signed: _____

Date Mailed: _____

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.

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