

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.: 2010-7075
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 24, 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 the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 24, 2010. The Claimant appeared and testified; [REDACTED] appeared on behalf of Claimant as Claimant's Hearing Representative. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether Claimant was properly found noncompliant with Jobs, Employment and Training (JET) activities resulting in disqualification and closure of 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 FIP recipient

2. Claimant worked part-time as a self-employed landscaper.
3. JET advised Claimant that he only needed to submit his landscaping work records to meet his JET participation requirements.
4. DHS was notified by JET that Claimant was not meeting his JET reporting requirements.
5. DHS testified that Claimant was noncompliant with JET participation, but it was not specifically stated how Claimant was noncompliant.
6. DHS scheduled a triage and Claimant did not attend.
7. On 9/11/09, Claimant's FIP was closed due to noncompliance with JET activities.
8. Claimant submitted a hearing request on 9/23/09 regarding closure of FIP.

CONCLUSIONS OF LAW

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 (RFT).

Federal and State laws require each work eligible individual in a FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A. All work eligible individuals 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.

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. BEM 233A at 4. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. It also includes having an immediate family member with an illness or injury that requires in-home care by the client. Id. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

In the present case, DHS was unable to sufficiently identify why Claimant was noncompliant with JET activities. DHS testified that they did not have the case file and were unable to specifically explain how Claimant was noncompliant.

Claimant testified that he was told by JET that he did not need to participate in JET beyond submitting records showing the hours he worked in his self-employment. Claimant testified that he always timely submitted these records except for one time in which he was a few days late. In light of Claimant's undisputed testimony, it is found that Claimant only had to submit his work records to JET to meet participation requirements and that Claimant did so timely. The one time Claimant failed to timely submit the records is found not to be a sufficient basis for noncompliance.

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, orders DHS as follows:

1. Evaluate Claimant's FIP eligibility back to the date of closure with the finding that Claimant was compliant in any JET activities during that time
2. Remove disqualification from Claimant's FIP caused by the improper finding of noncompliance

3. Rebudget any FAP benefits that were adversely affected by the improper finding of noncompliance.

Christian Gardocki

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

Date Signed: 4/2/2010

Date Mailed: 4/2/2010

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

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