

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant

Reg. No.: 2010-14663

Issue No.: 1038

Case No.: ██████████

Load No.: ██████████

Hearing Date:

March 4, 2010

Wayne County DHS (35)

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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 4, 2010. The Claimant appeared and testified; ██████████ also appeared and testified on Claimant's behalf. ██████████ ██████████ Specialist, and ██████████, Specialist, appeared and testified on behalf of Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits effective 11/02/09 for a failure to attend the Jobs, Employment and Training Program (JET)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for FIP on 10/8/09.

2. Claimant and her spouse were assigned to attend JET on 10/26/09 at 8:45 a.m.
3. Claimant and her spouse attended JET on their assigned date but arrived at approximately 9:00 a.m.
4. Claimant's tardiness was attributable to issues involving a special needs child.
5. Claimant and her spouse were denied entry to JET because of their tardiness.
6. DHS denied Claimant's FIP application on 11/2/09 due to Claimant's failure to timely attend JET.
7. Claimant timely submitted a hearing Rrequest on 1/5/10 protesting the denial of her FIP application.

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 (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. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. JET engagement is a condition of FIP eligibility.

Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229.

Claimant made three arguments contending that DHS incorrectly denied the application for FIP. Claimant contends that having issues transporting a special needs child on the first date of her JET assignment is good cause for the failure to attend JET. BEM 233A states, "A good cause determination is not required for applicants who are non-compliant prior to FIP case opening." Though the undersigned utterly sympathizes, appreciates and relates with Claimant regarding why she was tardy, good cause does not apply for a failure to begin JET and Claimant's reason for tardiness may not be considered.

It should be noted that having a special needs child may be a basis to be deferred from attending JET. However, no evidence was presented that indicated Claimant's circumstances justified such a deferral.

Claimant also argued that tardiness of 15 minutes should not have prevented her entry to JET. Claimant's JET referral stated, "YOU MUST ARRIVE ON TIME!" Though reasonable persons may differ as to the grace period JET should (or should not) allow for the first day, it is not an abuse of discretion for 15 minutes to be beyond that grace period. It is found that Claimant's 15 minutes of tardiness was an appropriate basis for finding that Claimant was noncompliant.

Lastly Claimant argued that she contacted DHS on the date she was refused entry to JET to seek a new assignment date and that DHS failed to reassign her. BEM 229 covers when it is appropriate for DHS to extend the assignment date for JET; it reads, "Either DHS or the MWA may extend the last day the client has to attend orientation when necessary. You must extend this date directly on MIS before the twentieth day passes." Claimant contacted

DHS on the eighteenth day after her application date; thus, it would have been possible for DHS or the MWA to extend Claimant's last date to attend JET orientation. BEM and BAM policy fails to offer guidance as to when such an extension is "necessary".

The DHS-4785 used to assign Claimant to JET provides some guidance on the issue. It reads, "If you fail to attend, your application will be denied. If you cannot keep this appointment you should call your DHS Specialist **before** you miss your appointment. You must reschedule this appointment as soon as possible or your application for FIP may be delayed. If you do not call or appear within 20 days of this notice, your application will be denied. You can reapply anytime." The underline and boldness of "before" in the above quote is precisely how it is written on the DHS-4785. The above excerpt indicates that clients may contact DHS to reschedule JET assignments prior to the assignment, not after the assignment is missed. DHS was not required to reschedule Claimant after Claimant failed to attend the JET assignment. Claimant's appropriate remedy is to reapply for FIP. Based upon the foregoing facts and relevant law, it is found that DHS' denial of Claimant's FIP application is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS appropriately denied Claimant's FIP application. Accordingly, the action of DHS is AFFIRMED.



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

Date Signed: 3/29/2010

Date Mailed: 3/29/2010

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 60 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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