

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.: 2010-21435
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 3, 2010
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 conducted from Detroit, Michigan on May 3, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly closed Claimant's Family Independence program (FIP) benefits effective 10/1/09 due to noncompliance with Jobs, Employment and Training (JET) participation.

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 was assigned to JET as a requirement for receipt of FIP benefits.

3. In 5/2009, Claimant had an unspecified amount of absences and or incomplete job search logs.
4. On 9/15/09, a triage was held and Claimant was found noncompliant with JET participation.
5. Claimant's FIP benefits were terminated following the triage.
6. Claimant submitted a hearing request on 9/18/09 regarding 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 (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).

Federal and State laws require each work eligible individual (WEI) 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 WEIs who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. Failure to appear at a JET program results in noncompliance. *Id.* A WEI's absence may be excused up to sixteen hours in a month. BEM 233A.

In the present case, DHS was unable to establish noncompliance by Claimant. Though some testimony was provided by DHS based on the documentation of a JET worker, the notes did not establish noncompliance by Claimant. Claimant credibly testified that she was not noncompliant with JET participation.

Testimony was also provided that following the DHS finding of noncompliance, Claimant became employed and then unemployed. Thus, DHS queried whether Claimant should regain FIP eligibility without reapplying for FIP benefits after her income stopped. It is believed that Claimant would be eligible for extended FIP (EFIP) during the months of employment. Clients regain eligibility for FIP benefits after EFIP if the income decrease is verified. BEM 519 at 2. It is found that Claimant's failure to reapply for FIP benefits should not affect her FIP benefit eligibility from the date of the improper 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, finds that DHS improperly terminated Claimant's FIP benefits due to noncompliance with JET activities. DHS is to reconsider Claimant's eligibility for FIP benefits beginning with the month that includes Claimant's first missed FIP payment due to noncompliance. DHS is to consider Claimant's ongoing FIP benefit eligibility based on Claimant's subsequent income and may resend Claimant to JET for future months of eligibility. Reinstatement of Claimant's FIP benefits shall not be hindered by Claimant's failure to reapply for FIP benefits.



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

2010-21435/CG

Date Signed: 5/13/2010

Date Mailed: 5/13/2010

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.

CG/jlg

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