

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.: 2010-25905
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 12, 2010
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 conducted from Detroit, Michigan on May 12, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program benefits for noncompliance with Jobs, Education and Training (JET) activities.

FINDINGS OF FACT

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

1. As of 12/2009, Claimant was an ongoing FIP recipient receiving \$597/month in FIP benefits.
2. Claimant began JET participation on 12/21/09.

3. By the end of 12/2009, Claimant was absent 16 hours from JET.
4. DHS subsequently found Claimant noncompliant with JET participation.
5. DHS scheduled a triage and found that Claimant lacked good cause for his JET absences.
6. At the triage, DHS and Claimant agreed that Claimant could return to JET on 1/25/10 without loss of FIP benefits.
7. Claimant failed to return to JET on 1/25/10.
8. DHS closed Claimant's FIP benefits due to noncompliance with JET participation with closure to be effective 3/1/10.
9. Claimant submitted a hearing request on 1/7/10 regarding termination of his 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 that person is either 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 beyond the limits set forth in DHS policy results in noncompliance. *Id.*

In the present case, the 1/4/10 JET worker comments indicate that Claimant was absent for 6 hours on 12/23/09, 5 hours on 12/29/09 and 5 hours on 12/30/09. Exhibit 1. A WEI's absence may be excused up to sixteen hours in a month. BEM 233A. Though Claimant's JET participation was lackluster, Claimant did not miss an amount of time in 12/2009 that would justify a finding of noncompliance. Because DHS could only establish sixteen hours of absences in one month and Claimant was authorized to miss up to sixteen hours in 12/2009, DHS failed to establish noncompliance with JET participation by Claimant.

It should be noted that DHS submitted triage notes that alleged Claimant's 12/2009 absences did exceed 16 hours for the month. Exhibit 3. This documentation did not specify the dates and times Claimant was absent. The undersigned is not inclined to accept these notes as fact in light of the contradictory and more specific JET worker notes submitted as Exhibit 1.

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 failed to establish noncompliance with JET participation by Claimant. It is ordered that:

1. DHS reinstate Claimant's eligibility for FIP benefits beginning 3/2010; and
2. Any other benefit reduction tied to the finding of noncompliance be adjusted to reflect that Claimant was not noncompliant; and
3. The noncompliance disqualification is to be deleted from Claimant's disqualification history.



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

Date Signed: 6/7/2010

Date Mailed: 6/7/2010

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.

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