

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.: 2010-30630
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 27, 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 Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 27, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly closed Claimant's Family Independence Program (FIP) benefits effective 3/2010 due to Claimant's failure to attend 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 Family Independence Program recipient as of 12/2009.
2. Claimant was absent from JET for an unspecified amount of hours in 12/2009.
3. DHS scheduled a triage on 12/22/09 regarding Claimant's 12/2009 absences.

4. At a 12/22/09 triage, DHS found that Claimant established good cause for some of her absences resulting in Claimant continuing her JET participation.
5. Claimant was one hour late to JET on 12/30/09 resulting in an alleged excess of absences from JET.
6. DHS scheduled Claimant for triage on 1/21/10 and found that Claimant lacked good cause for 12/2009 absences.
7. DHS initiated closure of Claimant's FIP benefits on 1/25/10 due to Claimant's alleged noncompliance with JET participation.
8. Claimant submitted a hearing request on 4/14/10 regarding termination of 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).

FIP provides temporary cash assistance to support a family's movement to self-sufficiency. FIP recipients engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and state laws require each work eligible individual (WEI) in a FIP group to participate in the JET or other employment-related activities unless deferred or engaged in activities that meet participation requirements. BEM 230A at 1

Failure to participate with JET may result in a finding of noncompliance unless a WEI can establish good cause for the failure. BEM 233A at 2. A client's JET participation may be interrupted by occasional illness or unavoidable event; the absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. BEM 230A at 22. For those clients believed to be noncompliant with JET participation, DHS is to schedule a triage to provide the opportunity to the WEI to establish good cause for the lack of JET participation. *Id* at 7. If good cause is established for the absence then the client returns to JET for continued participation. If the WEI fails to establish good cause then DHS may initiate closure of the client's FIP benefits including a period of disqualification.

In the present case, DHS scheduled a triage on 12/22/09 due to an unspecified amount of 12/2009 JET absences. DHS found that Claimant had good cause for some of her absences but DHS was unable to specifically indicate when or how many hours Claimant was absent without good cause. Clients cannot establish good cause without knowledge of the specific days of absence. It is found that DHS failed to establish any absences prior to 12/22/09 which could be part of a finding of noncompliance against Claimant.

On 12/30/09 Claimant appeared at JET at 12:10 p.m.; Claimant was scheduled to begin JET at 11:00 a.m. DHS contended that this absence, when combined with previous 12/2009 absences where good cause was not found, combined to establish noncompliance by Claimant. DHS was not able to establish any specific hours that Claimant lacked good cause prior to the 12/22/09 triage and only established that Claimant had one hour of absence (on 12/30/09) for the remainder of 12/2009. Claimant's one hour of absence is found not to establish noncompliance with JET participation. It is found that DHS failed to establish noncompliance for Claimant through 12/2009 JET absences.

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 found Claimant to be noncompliant with JET participation and improperly terminated Claimant's FIP benefits. It is ordered that DHS initiate the process of reinstatement of Claimant's FIP benefits beginning with the first pay period where Claimant did not receive FIP benefits due to the alleged 12/2009 noncompliance. DHS is also to remove any associated disqualification related to the noncompliance.

Christian Gardocki

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

Date Signed: 06/09/2010

Date Mailed: 06/09/2010

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/cp

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