

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201049268
Issue No.: 1038; 1022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 11, 2010
Office: Wayne County DHS (49)

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 held on October 11, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS) [REDACTED], Manager, appeared and testified.

ISSUE

1. Whether DHS properly terminated Claimant's FIP benefits based on a finding that Claimant was non-compliant with JET participation.
2. If the DHS determination of non-compliance was improper, whether Claimant is otherwise eligible for FIP benefits.
3. Whether DHS properly denied Claimant's application for 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 benefits recipient.
2. On an unspecified date within 9/2009, Claimant voluntarily relinquished custody of her 13 year old minor child to the child's father.

3. After 9/2009 through the date of hearing, Claimant was neither pregnant nor the caretaker of a minor child.
4. During Claimant's participation with JET, Claimant submitted job logs to JET which listed employers that Claimant contacted via telephone but not necessarily employers for which Claimant completed an employment application.
5. DHS stated that Claimant had an obligation to submit job logs listing employers for which Claimant submitted an employment application though Claimant was not aware of this requirement.
6. On 4/16/10, DHS found that Claimant was non-compliant with JET participation (Exhibit 1) because of her failure to submit job logs listing employers for which Claimant submitted an employment application.
7. The 4/16/10 finding of non-compliance was Claimant's third employment-related disqualification resulting in a 12 month disqualification from receiving FIP benefits.
8. On 5/17/10, Claimant requested a hearing disputing the termination of FIP benefits.
9. On an unspecified subsequent date, Claimant reapplied for FIP benefits.
10. On an unspecified subsequent date, DHS denied Claimant's new application for FIP benefits based on the finding that Claimant was disqualified from receiving FIP benefits stemming from the earlier finding of non-compliance.
11. On 8/12/10, Claimant requested a hearing concerning the denial of her FIP benefit 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 (DHS), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A at 1. Federal and state laws

require each work eligible individual (WEI) in a FIP group to participate in Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. *Id.* These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

JET is a program administered by the Michigan Department of Energy, Labor and Economic Growth through the Michigan Works! Agencies. *Id.* The JET program assists job seekers in obtaining jobs that provide economic self-sufficiency. *Id.* The WEI is considered non-compliant for failing or refusing to: complete a job application, provide legitimate documentation of work participation or participate in employment and/or self-sufficiency-related activities. *Id.* at 2.

In the present case, DHS alleged that Claimant was non-compliant with her JET obligation by submitting fraudulent job logs to JET. Specifically, DHS alleged that Claimant's should have submitted job logs which listed employers with which Claimant applied for employment. Claimant conceded that she did not complete employment applications for most of the employers listed in her job logs. Claimant contends that she was unaware of an obligation to apply for employment for each employer listed in her job log. Claimant further contends that she contacted each employer via telephone to discuss potential employment and followed-up with an employment application for those employers that were within reasonable distances.

Claimant's testimony was somewhat questionable. The undersigned fails to see the point in contacting employers via telephone without following-up by submitting an employment application. According to Claimant, she had no vehicle and was reliant on public transportation to visit potential employers. Claimant contends that this limitation prevented her from getting to employment locations so she could complete an employment application. DHS contended that Claimant told a JET worker that she completed approximately five applications out of approximately 100 employers listed in her job log; Claimant neither confirmed nor denied this allegation. The undersigned finds difficulty in believing that public transportation was an unreasonable transportation option for 95% of the employers that Claimant voluntarily chose.

Fortunately for Claimant, her testimony was not rebutted by any testimony from a person from JET. Though Claimant's testimony was questionable, it was also not disputed by any first-hand testimony. More importantly, DHS failed to present any testimony establishing what Claimant's obligation with JET was. DHS submitted case notes from workers at JET. Without testimony supporting the authenticity of the notes, the undersigned is inclined to deem such notes inadmissible. Based on Claimant's unrebutted testimony, Claimant is getting the benefit of the doubt concerning her lack of knowledge in what was expected from her job logs. It is found that Claimant did not submit fraudulent job logs due to her lack of knowledge in what was expected in her job

logs. Accordingly, it is found that DHS improperly found that Claimant was non-compliant with her JET participation and that her FIP benefits were improperly terminated effective 5/1/10.

Typically, a finding that DHS improperly terminated FIP benefits results in an order that Claimant is entitled to a reinstatement of FIP benefits. Such an order is appropriate when the only basis for FIP benefit termination was JET non-compliance. Claimant provided other testimony which directly impacts her eligibility for FIP benefits. Claimant stated that sometime in 9/2009 she relinquished custody of her 13 year old child to the child's father. Claimant stated she did so because she was unable to provide an appropriate shelter for herself and her child.

To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker. BEM 210 at 1. FIP groups with no eligible children may consist of only adults if an adult is pregnant. *Id* at 10. After Claimant voluntarily relinquished custody of her minor child, Claimant had no basis to receive FIP benefits. Claimant had no other basis (e.g.- disability) for cash assistance. Though it is found that DHS erred by terminating Claimant's FIP benefits on the basis of non-compliance, it is found that Claimant was not otherwise eligible for FIP benefits for failing to meet the FIP benefit group requirements.

The above reasoning applies to Claimant's FIP application submitted on an unknown date following the DHS finding of non-compliance. DHS denied the application based on the previous finding of non-compliance. The undersigned has reversed the finding of non-compliance but Claimant would not have been otherwise eligible for FIP benefits because of her failure to meet the FIP group-eligibility requirements. It is found that DHS properly denied Claimant's FIP benefit application but the appropriate basis for the denial was Claimant's failure to meet the group-eligibility requirement for FIP benefits and not the previous finding of JET participation non-compliance.

DECISION AND ORDER

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied terminated Claimant's FIP benefits beginning 5/1/10 on the basis of Claimant's noncompliance with participation with JET. It is ordered that DHS remove any disqualification stemming from the finding of non-compliance from Claimant's disqualification history.

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not eligible for FIP benefits since at least 5/1/10 as Claimant failed to meet the group eligibility requirements for FIP benefits. It is further affirmed that DHS properly denied

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Claimant's subsequent application for FIP benefits for the same reason.

/s/



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

Date Signed: October 22, 2010

Date Mailed: October 22, 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/hw

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