

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.: 2010-5235
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 4, 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 hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on March 10, 2010. The Claimant appeared and testified; [REDACTED] also appeared and testified on Claimant's behalf. [REDACTED], 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 for a failure to meet the requirements of 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 6/25/09.

2. Claimant and his living together partner (LTP) were assigned to attend JET beginning 7/13/09.
3. Claimant and LTP had a 35 hour/week JET attendance requirement.
4. LTP missed a total of 16 hours of JET between 8/3/09 through 8/6/09.
5. On 8/10/09, LTP failed to submit an 8/8/09 and 8/9/09 job search log to JET; the job search log was due at 9:00 a.m.
6. LTP requested to submit the job search log by the end of the day but was denied.
7. JET penalized LTP an unspecified amount of hours for the failure to timely submit the job log.
8. On 8/12/09, DHS denied Claimant's FIP application due to LTP's failure to meet JET's participation requirements.
9. Claimant timely submitted a Hearing Request on 10/20/09 protesting the denial of the 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.

BEM 233a lists several items that can result in JET non-compliance including “failing or refusing to appear or participate with JET” and “failure to provide legitimate documentation of work participation”. BEM 233A also states that a JET participant, “may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period.”

LTP concedes missing 16 hours of JET by 8/6/09. The MIS case notes indicate that LTP failed to submit a job search log by 8/10/09 at 9:00 a.m.; the log was from job searches from 8/8/09 and 8/9/09. LTP offered to bring the log at 4:30 p.m. that afternoon but JET had already found that the failure to submit the job search log by 9:00 a.m. caused LTP to exceed the allowable amount of hours.

The 8/2009 JET participation by LTP was unimpressive. However, missing 16 hours within one month, even if the absences occur within the first week is not non-compliance.

Failing to submit a job search log by 9:00 a.m. the day after the job searches occurred is also not a cause for non-compliance. In the present case, LTP requested to submit the job search log to JET by the end of the day; this was a reasonable request. Had evidence been provided indicating the request was unreasonable, a different decision may have been rendered. Two examples of appropriately denying LTP’s request would be if LTP habitually submitted the log late or that LTP was unable to furnish any verbal information about what job searches were accomplished which would tend to show that LTP only wanted time to manufacture a log. In the

present case, no evidence was provided to indicate that either circumstance was applicable. It is found that the failure to timely submit a job search log was not an appropriate basis for non-compliance and that the actions of DHS in denying Claimant's FIP application were not in accordance with its policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS inappropriately denied Claimant's FIP application. Accordingly, the action of DHS is REVERSED. The case is remanded to DHS to reconsider FIP eligibility based on Claimant's 6/25/09 application date based on the finding that Claimant and his partner were compliant with JET participation.



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

Date Signed: 3/30/2010

Date Mailed: 3/30/2010

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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