

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-27447
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 2, 2011
DHS County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 2, 2011. Claimant appeared and testified. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS properly terminated Claimant from the Jobs, Education and Training (JET) Program, thereby disqualifying her from Family Independence Program (FIP) benefits?

FINDINGS OF FACT

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

1. On October 27, 2009, Claimant applied for FIP benefits.
2. DHS awarded Claimant FIP benefits and she participated in the JET program.
3. On January 7, 2011, the JET program recommended that a triage meeting be conducted due to poor attendance.
4. There is no evidence to prove that DHS notified Claimant of the date and time for a triage meeting.

5. On March 25, 2011, DHS notified Claimant that her FIP benefits would close effective May 1, 2011.
6. On April 1, 2011, Claimant requested a hearing with DHS.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The DHS administrative manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

DHS in its Hearing Summary prepared for the Administrative Hearing in this case cited BEM 233A, "Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP." BEM 233A begins with a significant statement of the Department's Philosophy:

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. **Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency.** However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency related assignments and to ensure that barriers to such compliance have been identified and removed. **The goal is to bring the client into compliance.**

Noncompliance may be an indicator of possible disabilities. **Consider further exploration of any barriers.** *Id.*, p. 1 (emphasis added).

I find that DHS makes it clear by this statement that its goal is to identify and remove barriers to employment, and that the goal is *not* to penalize customers for generalized failures and mistakes. I read this section also to mean that if the customer shows good

cause for their action or failure to act, that action or failure to act will be excused and will not be held against them and the penalties will not apply.

Applying this section to the facts of the case before me, I find and conclude that DHS committed error in this case and must be REVERSED. I find and determine that the goals of DHS were not met in this case. I find and conclude that DHS failed to present an exhibit at the Administrative Hearing demonstrating that it informed Claimant of the date the noncompliance occurred. As a result, it is impossible to determine if good cause for noncompliance existed, and it is also impossible to determine if employment barriers existed.

My decision in this case is a finding that DHS failed to establish the actual date that noncompliance occurred and it is therefore impossible to determine what the alleged noncompliant act, or failure to act, consisted of. I find and conclude that Claimant is entitled to know on what date she failed to comply. I determine that without a specific date that is announced to the client, DHS fails to establish by clear and convincing evidence that there was noncompliance in this matter.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE DHS' action in this case. I return this case to DHS to reinstate Claimant's benefits, rescind any penalties imposed upon her, and re-enroll her in the JET program in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES the Department's termination of Claimant's FIP benefits. IT IS HEREBY ORDERED that DHS shall reinstate Claimant's benefits, rescind any penalties imposed upon her, and re-enroll her in the JET program in accordance with this opinion and DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 5, 2011

2011-27447/JL

Date Mailed: May 5, 2011

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 mailing 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.

JL/pf

cc:

