

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201132076
Issue No. 1038
Case No. [REDACTED]
Hearing Date: June 2, 2011
Wayne County DHS (18)

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 June 2, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether Claimant had good cause for her failure to participate with Jobs, Education and Training (JET) based on an alleged disability.

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 was an ongoing Family Independence Program (FIP) benefit recipient.
2. Claimant stated that she was physically disabled from attending JET.
3. On 1/3/11, the Medical Review Team (MRT) determined that Claimant was work ready with limitations.
4. On 2/7/11, DHS sent Claimant to JET.
5. Claimant failed to attend JET.

6. On 3/2/11, DHS held a triage and determined that Claimant lacked good cause for her JET attendance.
7. Claimant was re-referred to JET on 4/18/11 and Claimant again failed to attend.
8. On 4/25/11, DHS initiated termination of Claimant's FIP benefits to be effective 6/2011.

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.* 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).

The undersigned will refer to the DHS regulations in effect as of 4/2011, the month of the DHS decision in which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

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 (MWA). *Id.* The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. *Id.* The WEI is considered non-compliant for failing or refusing to appear and participate with JET or other employment service provider. *Id.* at 2.

The WEI is considered non-compliant for failing or refusing to appear and participate with JET or other employment service provider. *Id.* at 2. Note that DHS regulations do not objectively define, "failure or refusing to appear and participate with JET". Thus, it is left to interpretation how many hours of JET absence constitute a failure to participate.

DHS regulations provide some guidance on this issue elsewhere in their policy. A client's participation in an unpaid work activity may be interrupted by occasional illnesses

or unavoidable event. BEM 230 at 22. A WEI's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.*

In the present case, it was not disputed that Claimant failed to attend JET beginning 2/7/11. It was also not disputed that Claimant failed to attend JET after being resent beginning 4/18/11. It is found that Claimant's failure to attend JET was a sufficient basis for noncompliance.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. *Id.* at 3. Good cause includes any of the following: employment for 40 hours/ week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.* at 4. A claim of good cause must be verified. *Id.* at 3.

Claimant contended that she has physical disabilities which prohibit her from attending JET and therefore she had good cause for failing to attend JET. Of the good cause possibilities, physically unfit is most applicable to Claimant's circumstances. DHS regulations clarify that physical unfitness includes any disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity. *Id.* at 4.

Generally, good cause looks at circumstances of the specific days that Claimant was absent from JET and not at Claimant's general health. In the present case, Claimant did not provide a specific reason why she failed to attend JET on the days she was sent other than a general claim of physical disability. Nevertheless, Claimant's alleged impairments could be severe enough to reasonably prevent any JET attendance.

The undersigned received substantial medical documentation related to Claimant's impairments; most of the documentation was from 2009 or earlier. The undersigned is not inclined to base a current finding of good cause on two year old medical evidence; though the documents may be useful for insight into Claimant's past the undersigned is not inclined to rely on the documents to describe Claimant's current condition.

The most recent medical evidence was a letter from Claimant's physician submitted on 5/10/11. Though the letter referred to a time following Claimant's failure to attend JET, coupled with medical documents from an earlier time, the undersigned can see no reason why the 5/10/11 document would not accurately reflect Claimant's condition on the days she failed to attend JET. The letter described Claimant's heart conditions and described Claimant with a functional heart capacity between class II and class III. The undersigned interprets Class II heart functional capacity as one that would only slightly limit Claimant's physical activities; this would tend to support a finding that Claimant lacked good cause for not attending JET. A pure class III functional capacity is

representative of a person with markedly limited in performing physical activities; this would tend to support a finding that Claimant had good cause for not attending JET.

There was also evidence that Claimant's obesity was a contributing factor to her physical activity limits. Claimant testified that she was 5'6 tall and weighed 265 pounds. Claimant's physician noted Claimant's exertional intolerance, dyspnea and fatigue aggravated by her obesity.

Overall, the present case presents a difficult call concerning whether Claimant established good cause for failing to attend JET. On one hand, Claimant's complete failure in trying to attend JET tends to be some evidence that Claimant's failure to attend JET was due to a lack of effort, not a disability. The undersigned also tends to find Claimant's lack of Social Security Administration benefits to be evidence that points to Claimant not being disabled. Further, even taking Claimant's 5/10/11 physician statement to verify disability, Claimant should have submitted the document to DHS at the time of the triage, not following the FIP benefit termination.

On the other hand, Claimant's physician provided some evidence of marked limits on Claimant's physical abilities attributable to Claimant's congenital heart disease and her obesity. The physician concluded that Claimant was "medically disabled and unable to tolerate any meaningful employment because of her symptomatic status".

Based on the totality of the evidence, the undersigned is marginally more persuaded by the evidence of Claimant's physician and that Claimant had good cause for not attending JET. It is found that Claimant had good cause for failing to attend JET based on her physical impairments. Accordingly, the DHS finding that Claimant lacked good cause was improper as was the DHS termination of FIP benefits.

Failure to comply with JET participation requirements without good cause results in FIP closure. *Id* at 6. The first and second occurrences of non-compliance results in a 3 month FIP closure. *Id*. The third occurrence results in a 12 month sanction. *Id*. As Claimant was found to have good cause, DHS shall also not consider the noncompliance as part of Claimant's noncompliance history.

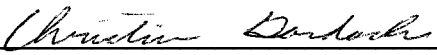
This administrative decision only addresses Claimant's previous failures to attend JET. The decision has no impact on limiting DHS from referring Claimant back to JET immediately.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefits effective 6/2011. It is ordered that DHS:

- reinstate Claimant's FIP benefits effective 6/2011;
- supplement Claimant for any FIP benefits not received as a result of the DHS finding of noncompliance; and
- remove any relevant employment-related disqualification from Claimant's disqualification history stemming from the finding of noncompliance.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

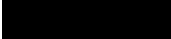

Date Signed: June 20, 2011

Date Mailed: June 20, 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.

CG/ctl

cc: 
Wayne County DHS (18)/1843

Christian Gardocki
Administrative Hearings