

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

**IN THE MATTER OF:**



Reg. No. 201134396  
Issue No. 1038  
Case No. [REDACTED]  
Hearing Date: June 16, 2011  
Oakland County DHS (02)

**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 16, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Manager, appeared and testified.

**ISSUE**

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits effective 4/2011 due to Claimant's alleged noncompliance with Jobs, Education and Training (JET) participation.

**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 FIP benefit recipient.
2. Following a triage in which Claimant agreed she was noncompliant, Claimant was scheduled to re-attend JET on 11/4/10.
3. Claimant failed to attend the 11/4/10 orientation.
4. Per an administrative decision issued 1/10/11, the administrative law judge ordered DHS to reinstate Claimant's FIP benefits (among other benefits) so that a triage could be held to determine Claimant's basis for good cause for missing the 11/4/10 orientation date.

5. Claimant subsequently reported two different residential addresses to DHS, both of which were nonexistent addresses.
6. On an unspecified date, DHS scheduled a triage for Claimant to be held on 3/11/11 at 2:00 p.m.
7. Claimant failed to attend the triage.
8. On 3/16/11, DHS initiated termination of Claimant's FIP benefits to be effective 4/2011 (see Exhibit 1).
9. On 4/26/11, Claimant requested a hearing to dispute the 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.* DHS, formerly known as the Family Independence Agency, administers the FIP 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 estimated month of the DHS decision 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. *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.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.
- Failing or refusing to appear and participate with JET or other employment service provider.
- Failing or refusing to complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
- Failing or refusing to develop a Family Self-Sufficiency Plan (FSSP).
- Failing or refusing to comply with activities assigned on the FSSP.
- Failing or refusing to provide legitimate documentation of work participation.
- Failing or refusing to appear for a scheduled appointment or meeting related to assigned activities.
- Failing or refusing to participate in employment and/or self-sufficiency-related activities.
- Failing or refusing to accept a job referral.
- Failing or refusing to complete a job application.
- Failing or refusing to appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. *Id.*

In the present case, it was not disputed that Claimant missed an 11/4/10 appointment to restart her JET attendance. There was no evidence that Claimant made any efforts to attend JET following the missed appointment. It is found that Claimant's failure to attend the 11/4/10 appointment was sufficient to establish 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.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id.* at 7. In processing a FIP closure, DHS is required to send the client a notice of non-compliance (DHS-2444) which must include: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration *Id.* at 8. In

addition, a triage must be held within the negative action period. *Id.* If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id.*

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. *Id.* If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. *Id.*

It was not disputed that Claimant not only failed to attend the 11/4/10 orientation, but also that she failed to attend the 3/11/11 triage to discuss why she did not attend JET on 11/4/10. Claimant testified that she called and left a message for the person in charge of scheduling triages the day before the triage to reschedule the appointment. Claimant stated that she had the flu and could not attend the triage. Claimant also testified that the DHS staff member did not return her message.

Claimant's testimony concerning the triage was not refuted as the only witness presented by DHS had no first hand knowledge of Claimant's case. However, that does not necessarily mean that Claimant's testimony was credible.

Claimant provided no evidence, such as a doctor's note, to verify that she had the flu. On the other hand, the undersigned also understands that the flu is not an illness which would necessarily lead to a doctor visit.

In determining the credibility of Claimant's testimony concerning her excuse for not attending the triage, the undersigned was very distracted by Claimant's failure to accurately report two different mailing addresses to DHS. Claimant stated that she was in between her mother's and father's residences in 2/2011. Claimant stated that she intended to report her father's residence but that he twice provided her with an incorrect address; Claimant reported both nonexistent addresses to DHS as her own. Claimant never adequately clarified why she was unable to provide DHS with a bona fide address.

Though the address mishap was not a direct factor in the noncompliance, it tended to show that the intent of the reporting was to delay the triage. DHS testified that Claimant reported not being able to attend a triage (presumably one scheduled prior to 3/11/11) because of the address move to the nonexistent address.

Based on the testimony concerning Claimant's reporting of nonexistent addresses, it is found that Claimant did not credibly testify concerning missing the 3/11/11 scheduled triage. Thus, DHS properly held the triage in the absence of Claimant.


At the triage, DHS is to determine good cause based on the best information available during the triage and prior to the negative action date. *Id.* Good cause may be verified

by information already on file with DHS or MWA. *Id.* Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. *Id.*

There was no evidence that DHS ever considered good cause for the 11/04/10 failure to attend orientation. Claimant stated her good cause was her unwillingness to miss school during a probationary period. Claimant stated that she received financial aid and thought she'd risk losing it if she missed school to attend orientation. Though the undersigned tended to believe Claimant that she was attending school at the time of the orientation, there was no evidence that Claimant couldn't miss one day of school to begin JET attendance. Further, school attendance is not a basis for good cause. Claimant could have attended the orientation to be deferred from future JET attendance but did not make any attempt to pursue this avenue. It is found that Claimant lacked good cause for not attending the 11/04/10 JET orientation. Accordingly, DHS properly found Claimant to be noncompliant with JET participation and properly terminated Claimant's FIP benefits effective 4/2011.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefits effective 4/2011. The actions taken by DHS are AFFIRMED.

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

Date Signed: June 24, 2011

Date Mailed: June 24, 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.

201134396/CG

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:

[REDACTED]  
Oakland County DHS (02)

[REDACTED]  
Christian Gardocki  
Administrative Hearings