

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-35283  
Issue No. 1038  
Case No. [REDACTED]  
Hearing Date: June 27, 2011  
Macomb (36)

**ADMINISTRATIVE LAW JUDGE:** Yasmin J. Elias

**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 conducted from Detroit, Michigan, on June 27, 2011. The Claimant appeared and testified. [REDACTED], Family Independence Specialist, and [REDACTED] MI Works/Jobs, Education and Training (JET) liaison appeared and testified for the Department of Human Services (DHS).

**ISSUE**

Whether DHS terminated Claimant from the Family Independence Program (FIP) in accordance with its policies and procedures?

**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. In 2011, the Claimant was a FIP recipient, who was required to participate in the Jobs, Education and Training (JET) program in order to receive FIP benefits.
2. Prior to March, 2011, the Claimant was approved to attend training in satisfaction of her JET program requirements.
3. The Claimant was required to submit documentation of her training attendance to a JET program representative on a regular basis.

4. By letter dated March 15, 2011, the Claimant was informed that her training approval ended and that she was required to return to regular JET participation on April 1, 2011.
5. The Claimant attended the JET program on April 1, 2011 as directed.
6. On April 12, 2011, a JET program representative left a voice mail for the Claimant asking her to submit documentation of her training hours for the month of March, by April 14, 2011.
7. The Claimant did not submit documentation of her March 2011 training hours by April 14, 2011.
8. The DHS found the Claimant to be in noncompliance with the JET program based on her failure to submit the referenced March training attendance documentation by April 14, 2011.
9. The Claimant attended a triage on May 3, 2011, to discuss her alleged non-compliance.
10. At the triage, the DHS determined there was no good cause for the Claimant's noncompliance and informed the Claimant that her case would be scheduled for closure due to noncompliance with the JET program.
11. On May 13, 2011, the Claimant submitted a Request for a Hearing to 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. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at [www.michigan.gov/dhs-manuals](http://www.michigan.gov/dhs-manuals).

The provisions in BEM 230A, "Employment and/or Self-Sufficiency-Related Activities: FIP/RAP [Refugee Assistance Program] Cash," follow Federal and State laws which require that every work-eligible individual must participate in the JET Program or other work-related activities. BEM 230A. Accordingly, 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

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other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 233A at 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. BEM 233A at 1.

JET is a program administered by the Michigan Department of Energy, Labor and Economic Growth through the Michigan Works! Agencies. BEM 233A at 1. 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. BEM 233A at 1. The WEI is considered non-compliant for failing or refusing to appear and participate with JET or other employment service provider. BEM 233A at 2.

A client's participation in an unpaid work activity may be interrupted by occasional illness or unavoidable event. BEM 230A 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. BEM 230A at 22. 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. BEM 230A 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. BEM 230A at 4. A claim of good cause must be verified. BEM 230A 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. BEM 233A at 7. In processing a FIP closure, DHS is required to send the client a notice of noncompliance (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. BEM 233A at 8. If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. BEM 233A at 8. The first and second occurrences of non-compliance result in a 3 month FIP closure, while the third occurrence results in a 12 month sanction. BEM 233A at 6.

In the present matter, the Agency's Hearing Summary identifies April 8, 2011 as the date when the Claimant failed to comply with the JET program. The summary alleges that the Claimant was required to return March, 2011 training attendance forms by that date, and further alleges that the Claimant failed to return the requested forms. However, during the hearing, the DHS' witness identified April 14, 2011 as the date when the Claimant was noncompliant by failing to submit her March, 2011 training attendance forms. The Department did not introduce a Notice of Non-Compliance in evidence reflecting which of the two referenced dates was brought to the Claimant's attention as the date(s) of noncompliance in accordance with its policies.

Considering all of the record evidence, there was insufficient evidence presented on the record to establish that the Claimant received a request or directive to perform a JET related activity on or by either April 8 or April 14, 2011, which she failed to do. The DHS presented the testimony of a JET program representative who testified that on April 12, 2011 a voice mail message was left for the Claimant directing her to submit her March training attendance forms by April 14, 2011. However, there was no evidence presented on the record to establish that the Claimant received such a message. In addition, the Claimant denied receiving such a message.

Further, the Claimant testified that she believed that there was no longer a need to submit the training attendance forms following her receipt of a DHS letter dated March 15, 2011. The letter informed the Claimant that her training was no longer an approved JET activity and directed her to return to the regular JET program by April 1, 2011. According to the Claimant, the letter did not reference a need to continue to provide training attendance forms. There was no dispute as to the contents of the letter. The Claimant's asserted belief that she was no longer required to document her training attendance is not unreasonable given the contents of the March 15, 2011 letter. The Claimant exhibited an interest in complying with the JET program when she reported back to the JET program as directed, on April 1, 2011.

Accordingly, the DHS did not demonstrate that it acted in accordance with its policies when it concluded that the Claimant was in noncompliance with JET activities in April, 2011.

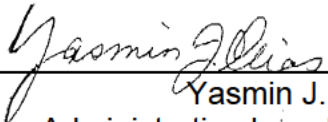
### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not follow its policies when it concluded that the Claimant was in noncompliance with the JET program without good cause, in April, 2011. The Department's actions with respect to this finding of noncompliance are REVERSED. It is ordered that the DHS shall:

1. Reinstate Claimant's FIP benefits retroactive to the date of termination.
2. Remove from Claimant's case history any disqualification or other negative case action related to the improper finding of noncompliance.
3. Refer Claimant back to the JET program as one of her requirements for receiving FIP benefits.

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All steps taken by DHS shall be in accordance with this Opinion and DHS policies and procedures.

  
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Yasmin J. Elias  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: July 5, 2011

Date Mailed: July 6, 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.

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