

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201130643
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: July 13, 2011
Macomb (20)

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 Desiree Rucker's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on July 13, 2011. The Claimant appeared and testified. The Claimant also presented the testimony of [REDACTED], her mother, as a witness. Family Independence Specialist [REDACTED] 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. Approximately two weeks before April 12, 2011, the Claimant informed her assigned JET case worker that she was admitted to beauty school.
3. The Claimant's worker recommended that the Claimant speak with another case manager about obtaining a \$500 allowance for school.

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4. The Claimant met with a JET case manager on April 11, 2011, to inquire into available funds for beauty school, but was informed that the funds were not available for beauty school, although the program was an approved training program through JET.
5. The same JET case manager informed the Claimant that she would be required to submit a letter with proof of admission, as well as proof of school attendance. The JET case manager did not give the Claimant a deadline for these tasks.
6. The Claimant started beauty school on April 12, 2011.
7. The Claimant and an admission officer at her school attempted to fax a letter documenting her admission from the beauty school to her JET case worker on April 14, 2011. The document did not go through and was not received by a JET program worker.
8. The Claimant was deemed to be in non-compliance with the JET program for not attending JET activities for the week starting April 11, 2011.
9. The Claimant was scheduled to attend a Triage, a meeting to address the reasons for her alleged non-compliance during the week starting April 11, 2011.
10. The Claimant attended the Triage meeting on May 18, 2011, and presented a letter verifying her school acceptance and attendance as of April 12, 2011.
11. The DHS worker testified that the Claimant's documentation would have been acceptable proof of training, an alternative to participating in other JET programs, but the letter had not been received within two days, as required.
12. The DHS did not deem the Claimant's asserted lack of transportation as good cause for not submitting her school documentation earlier by facsimile or by bringing the documentation to a JET worker in person. Therefore, the DHS did not accept the school documentation as good cause for the Claimant's non-participation with other JET activities.
13. During the Triage meeting, the DHS found the Claimant to be in noncompliance with the JET program without good cause, and informed the Claimant that her case would be scheduled for closure due to noncompliance with the JET program.
14. On May 18, 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.

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 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 Claimant testified that she informed her JET worker and a JET manager of her beauty school acceptance and expected attendance starting April 12, 2011, approximately two weeks before the start of school. The Claimant further testified that she was informed that her selected beauty school program was approved training for JET purposes, but that she would have to present documentation to JET. According to the Claimant, she was not informed of a two day deadline for the submission of documents.

The Claimant's testimony as to these events is found to be credible. The Claimant exhibited an interest in complying with the JET program when she reported her school plans to her assigned JET worker and when she met with a JET manager seeking school funding prior to the start of her school attendance. The Claimant obtained documentation of her school attendance as directed. The documentation was not accepted at the Triage due to the Claimant's delay in presenting it, however, the Claimant asserted that she and her school's admission officer attempted to fax the document to the JET program worker on April 14, 2011, but the fax would not go through. The Claimant also testified that her van broke down that week, and thus she was unable to drop the documentation to the JET program. She added that she was able to walk to school as it was located near her home. The Claimant's testimony as to these issues was not disputed. The Claimant's explanation of the circumstances surrounding her delay in submitting her school documentation establishes good cause for the timing of the submission. Accordingly, the Claimant's documentation of school admission and attendance should have been accepted as appropriate documentation of an alternative JET activity for the week starting April 11, 2011.

Therefore, the DHS did not demonstrate that it acted in accordance with its policies when it concluded that the Claimant lacked good cause for her noncompliance with JET activities the week starting April 11, 2011.

DECISION AND ORDER

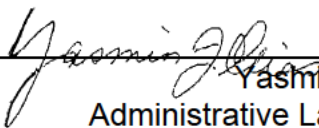
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not follow its policies when it concluded that the Claimant was in noncompliance with the JET program without good cause, for the week starting April 11, 2011. The Department's actions 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.

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2. Supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified, in accordance with department policy.
3. Remove from Claimant's case history any disqualification or other negative case action related to the improper finding of noncompliance.
4. Refer Claimant back to the JET program, or to an acceptable alternative training program, as one of her requirements for receiving FIP benefits.

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



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

Date Signed: July 18, 2011

Date Mailed: July 18, 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 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.

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