

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-3649
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 29, 2010
Macomb County DHS (12)

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 November 29, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

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

FINDINGS OF FACT

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

1. Claimant was an ongoing FIP benefit recipient.
2. Claimant was assigned to participate with JET.
3. On an unspecified date in 9/2010, Claimant submitted a job log to JET which included the names of three employers that Claimant supposedly submitted an employment application.
4. In reality, Claimant failed to submit an employment application to the three employers on her job log.

5. On 10/12/10, DHS mailed Claimant a Notice of Noncompliance and scheduled a triage meeting with Claimant on 10/21/10 at 9:00 a.m.
6. At the 10/21/10 triage meeting, DHS determined that Claimant was noncompliant with JET by submitting falsified job logs and that Claimant lacked good cause for the noncompliance
7. On 10/22/10, DHS terminated Claimant's FIP benefits effective 12/1/10 based on Claimant's job log falsification.
8. On 10/22/10, Claimant requested a hearing disputing 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.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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.*

A job log is a JET requirement where clients keep a record of employers for which an employment application was submitted. Clients are expected to submit the logs to JET. In turn, JET may contact the employers listed on the job log to verify that a client actually submitted an employment application to the listed employer.

In the present case, DHS alleges that Claimant submitted falsified job logs to JET. Claimant conceded submitting the names of three employers in her job log for which she did not submit an employment application. As stated above, failing or refusing to provide legitimate documentation of work participation is a basis for noncompliance with JET. It is found that Claimant failed to submit legitimate documentation of work participation by listing three employers in her job log for which she did not submit an employment application.

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 contends that she had good cause for submitting an intentionally inaccurate job log. Claimant testified that JET mandated that she submit employment applications to employers near her house. Claimant stated that public transportation was not a reasonable option to travel to these employers and that her lack of transportation is a valid basis for good cause. The undersigned is not inclined to agree.

Claimant's basis for good cause might be appropriate if Claimant's JET noncompliance was based on a failure to submit a sufficient number of employment applications near her house. Claimant's noncompliance was based on a failure to submit an accurate job log. If Claimant was unable to travel to employers near her house, her appropriate course of action would have been to explain this problem to JET to see if public transportation assistance could be provided or to see if she could be excused from the requirement. Submitting a falsified job log was not an appropriate action and Claimant may not use a lack of transportation as an excuse for the falsification.

Claimant responds that had she not falsified her job log that JET would have found her noncompliant. The undersigned does not make this assumption. No persuasive evidence was submitted indicating that Claimant's only option was to submit a falsified job log or be found to be noncompliant. It is found that Claimant was noncompliant with JET participation and lacked good cause for her noncompliance.

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*. Based on the finding of noncompliance without good cause, it is found that DHS properly terminated Claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined that Claimant was noncompliant with JET participation and appropriately terminated Claimant's FIP benefits effective 12/2010. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/13/2010

Date Mailed: 12/13/2010

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 60 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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