

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

IN THE MATTER OF:



Reg. No.: 201144364
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 18, 2011
Wayne County DHS (19)

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 August 18, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), Vanola Williams, Manager, and Kimberly Carlton, Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application dated 5/16/11 for Family Independence Program (FIP) benefits due to Claimant's failure to attend Jobs, Education and Training (JET).

FINDINGS OF FACT

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

1. On 5/9/11, Claimant applied for FIP benefits.
2. Claimant advised DHS that her spouse had a short-term disability and that she was needed in the home to take care of her spouse.
3. DHS mailed Claimant a Medical Needs- JET form (DHS-54-E) to be returned by 5/19/11.
4. DHS also scheduled Claimant and her spouse to attend JET orientation on 5/23/11.

5. On 5/23/11, DHS received a completed DHS-54-E.
6. Claimant and her spouse failed to attend JET orientation on 5/23/11.
7. On 6/2/11, DHS denied Claimant's FIP benefit application due to the failure to attend JET, partially based on the tardiness of the DHS-54-E and partially based on the DHS-54-E which allegedly failed to establish a basis for deferral from JET participation.
8. On 7/15/11, Claimant requested a hearing to dispute the FIP benefit application denial.

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 administers 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).

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.

Mandatory JET clients are referred to JET upon application for FIP. BEM 229 at 3. DHS is to issue a manual correspondence, DHS 4785, JET Appointment Notice from Bridges at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory JET participant. *Id.* at 4. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. *Id.* JET engagement is a condition of FIP eligibility. *Id.*

In the present case, Claimant contended that her spouse had a short-term disability which prevented him from participating with JET. Claimant also contended that she was also unable to attend JET because she was needed to care for her spouse.

It was not disputed that DHS mailed Claimant a DHS-54-E form in an attempt to verify whether Claimant and her spouse could participate with JET. It was also not disputed: that the due date to return the DHS-54-E was 5/19/11, that DHS received the DHS-54-E on 5/23/11 and the FIP benefits application was denied on 6/2/11 due to a failure by Claimant and her spouse to attend the JET orientation.

DHS refused to consider Claimant's DHS-54-E because it was submitted after the due date. DHS witnesses seemed to make some type of argument that their computer system, Bridges, prevented an analysis of a short-term deferral because it was submitted shortly after the due date and/or on the date of the JET orientation date. Whether a DHS action was caused by a DHS specialist or Bridges is irrelevant; both are DHS actions. DHS may not argue that an action is proper solely because Bridges performed the action. Bridges is not a proper reference for DHS regulations. DHS regulations are outlined within BAM, BEM and other relevant DHS policy chapters.

DHS was asked which policy would have supported a failure to evaluate Claimant and her spouse for a deferral from JET participation solely because the verification was received on the date of JET orientation and two business days following the due date. DHS could not point to any such regulation supporting their actions. It is found that DHS erred by failing to evaluate Claimant's and her spouse's basis for a deferral from JET participation based on the submitted DHS-54-E.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. BEM 230A at 11. DHS is to verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs form or DHS-54E, Medical Needs- JET form or other written statement from an MD/DO. *Id.* DHS is to set the medical review date accordingly, but not to exceed three months. *Id.* For JET deferrals based on a need for a spouse to take care of a spouse (or child), a doctor must verify all of the following in writing using a DHS-54A, Medical Needs or DHS-54E Medical Needs -JET form: the disability of the spouse/child needing care and the extent and duration of the disability, the spouse/parent is needed in the home to provide care and the spouse/parent cannot engage in an employment-related activity due to the extent of care required. *Id.* at 24.

DHS subsequently argued, even if Claimant's DHS-54-E was evaluated, the deferral would have been denied. It was not disputed that the DHS-54-E stated that Claimant's spouse had limitations of putting weight on his leg and needed assistance in the home with activities including: meal preparation, toileting, dressing, bathing and grooming.

According to DHS, because Claimant did not need assistance with mobility and would be able to sit while participating with JET, Claimant failed to establish a short-term disability. The undersigned disagrees.

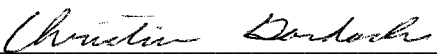
For all practical purposes, it was unrealistic to expect Claimant's spouse to attend JET when he was unable to put any weight on his leg. Claimant's spouse may have been able to sit at JET, but it would be physically impossible to attend JET without standing. Further, the need for basic activities such as even toileting and dressing is sufficient to establish a need for Claimant's spouse to remain with her spouse. It is found that DHS erred in denying Claimant's short-term disability. Accordingly, DHS erred in denying Claimant's application for FIP benefits. Testimony was provided that the disability was expected to last until 7/13/11. The short-term disability and deferral from JET was established through 7/13/11.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FIP benefits dated 5/9/11. It is ordered that DHS:

- (1) reinstate Claimant's application for FIP benefits; and
- (2) initiate the process to evaluate Claimant's application for FIP benefit eligibility based on the finding that Claimant and her spouse established a basis for short-term disability through 7/13/11.

The actions taken by DHS are REVERSED.


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

Date Signed: August 25, 2011

Date Mailed: August 25, 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.

201144364/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/hw

cc:



Administrative Hearings