

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

IN THE MATTER OF:



Reg. No.: 2011-4609
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: December 8, 2010
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 December 8, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), Amber Garrett, Specialist, and Willard Anzaldi, JET Coordinator, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance based on excessive absences from Jobs, Education and Training (JET) program.

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 had a 30 hour/week JET participation requirement.
3. Claimant's hourly participation with JET (see Exhibit 2) was:
 - 0 hours for week beginning 8/1/10 (no job log submission)
 - 19 hours for week beginning 8/8/10 (16 hours excused + 3 hours)
 - 2 hours for week beginning 8/15/10 (2 hours onsite and no job log)
 - 0 hours for week beginning 8/22/10
 - 0 hours for week beginning 8/29/10
 - 17 hours for week beginning 9/5/10 (10 hours onsite + 7 hours for holiday)
 - 0 hours for week beginning 9/12/10
 - 15 hours for week beginning 9/19/10

4. On 9/29/10, JET found Claimant to be noncompliant with her JET participation and referred Claimant for triage (Exhibits 3 and 4).
5. On 10/22/10, DHS held a triage and determined that Claimant lacked good cause for her failure to participate with JET.
6. On 10/22/10, DHS mailed Claimant a Notice of Case Action terminating Claimant's FIP benefits effective 11/2010 based on Claimant's noncompliance with JET participation.
7. On 10/22/10, Claimant requested a hearing disputing the termination of her 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 (DHS), formerly known as the Family Independence Agency, administers the FIP program 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. *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.

Note that DHS regulations do not objectively define, "failure or refusing to appear and participate with JET". Thus, it is left to interpretation how many hours of JET absence constitute a failure to participate.

The testimony concerning Claimant's participation was very thorough. DHS explained in detail what Claimant's JET participation requirements were and how JET calculated Claimant's participation. It was shown that JET gives clients two hours of participation credit for submitting an employment application, 3 hours of credit for a job interview, 15 minutes of credit for a telephone call or email and 30 minutes of credit for a telephone call. The amount of credit clients received for their employment activities was fair and appropriate.

DHS also demonstrated that Claimant was absent from JET well beyond her participation requirements. Over the course of seven weeks between 8/2010 and 9/2010 Claimant never completed even 20 hours of her 30 hour/week participation requirements. That time span also included four weeks where Claimant failed to participate at all. In total, Claimant participated 30 hours out of her required 217 hours after factoring out 16 hours of excused participation time and 7 hours of holiday credit. It is found that Claimant's absences from JET were sufficient for a finding of noncompliance with JET participation.

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*.

Claimant contends she had two valid reasons for good cause for her lack of participation. First, Claimant states that her vehicle was repossessed and caused her to lose two weeks of job log verification which were in the car at the time of repossession. Claimant did not verify the repossession but it is not known what Claimant could have used as verification. The undersigned is inclined to believe Claimant's testimony concerning the repossession of her vehicle.

DHS responded that Claimant was required to submit a job log weekly and a vehicle repossession should not excuse Claimant for more than one week of JET participation.

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The undersigned is inclined to believe that Claimant was required to submit job logs to JET on a weekly basis, not bi-weekly.

The undersigned is not inclined to accept Claimant's statement as good cause. It would seem that Claimant could have assembled a portion of the information that was lost when she lost her car. No evidence was presented to show that Claimant made any such attempts.

Claimant also indicated that she attended college for part of 8/2010 which caused her to be absent from JET. Claimant stopped attending school when she lost her financial aid. Again Claimant's excuse does not amount to good cause. There was no evidence that JET ever approved Claimant to attend school in place of JET participation. Claimant could not even state how much time she attended class before she stopped attending; even finding good cause for three weeks of Claimant's absences due to school and one week for Claimant's lost job log would still result in ample JET absences to justify noncompliance. It is found that Claimant was noncompliant with JET participation and lacked good cause for her lack of participation.

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*.

DHS demonstrated that all required procedures were met in terminating Claimant's FIP benefits. It is found that DHS properly terminated Claimant's FIP benefits based on Claimant's noncompliance with JET participation.

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 based on a determination that Claimant was noncompliant with employment related activities. The actions taken by DHS are AFFIRMED.



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

Date Signed: 12/27/2010

Date Mailed: 12/27/2010

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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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