

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-49219
Issue No. 1038 3029
Case No. [REDACTED]
Hearing Date: December 7, 2011
Oakland County DHS (03)

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 7, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED] Manager, appeared and testified.

ISSUES

The first issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with Jobs, Education and Training (JET) participation.

The second issue is, if the noncompliance is established, whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits.

FINDINGS OF FACT

The Administrative Law Judge, based on 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 an ongoing JET participant.
3. Claimant had a 25 hour/week obligation to attend JET.
4. Claimant was allegedly noncompliant with JET participation due to a failure to submit job search logs in 7/2011.

5. On 7/29/11, DHS mailed a Notice of Noncompliance informing Claimant of a triage.
6. On 8/9/11, a triage was held in which it was determined that Claimant had no good cause for not meeting her participation requirements.
7. On 8/9/11, DHS initiated termination of FIP benefits and reduced FAP benefits effective 9/2011 due to Claimant's alleged noncompliance with JET participation.
8. On 8/9/11, Claimant requested a hearing to dispute 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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The controlling DHS regulations are those that were in effect as of 8/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

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.

DHS regulations provide some guidance on this issue elsewhere in their policy. A client's participation in an unpaid work activity may be interrupted by occasional illnesses or unavoidable event. BEM 230 at 22. A WEL's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.*

MWAs offer various ways that clients can meet their weekly participation requirements. Some of the allowable methods in meeting participation include: attending school or other trainings, on-site MWA attendance or independent job search. Claimant's JET participation required 25 hours/week of participation but it was not specified how Claimant was required to participate 25 hours.

A failure to submit job search logs does not directly equate to noncompliance. Such a failure equates to some number of hours based on time that a client is given to perform job search. For example, a client could be given 5 hours on a given day to perform job search. A subsequent failure by a client to submit a job search log for that day would result in a five hour absence for the day Claimant was performing job search.

DHS alleged that Claimant failed to submit job search logs on 7/2011. DHS could not specify for which dates Claimant failed to verify independent job search. Without any specifics on the alleged failure, it cannot be determined for how many hours that Claimant may have been absent from JET. As this information was not established, it is found that DHS failed to establish noncompliance by Claimant.

It was not disputed that the FIP benefit termination was based solely on alleged noncompliance with JET participation by Claimant. As it was found that DHS failed to establish noncompliance, it is also found that the FIP benefit termination was improper.

It should be noted that this decision only addresses and reverses the DHS termination of FIP benefits based on noncompliance. It does not address whether Claimant may be eligible for full reinstatement of FIP benefits for some unrelated reason. DHS hinted that Claimant may not be eligible for FIP benefits based on meeting lifetime time limits for FIP. If DHS subsequently determines that Claimant is not eligible for a reinstatement for FIP benefits due to some other reason, Claimant is entitled to request another administrative hearing.

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;
- the client did not comply with FIP employment requirements;
- the client is subject to a penalty on the FIP program;
- the client is not deferred from FAP work requirements; and
- the client did not have good cause for the noncompliance. BEM 233B at 2.

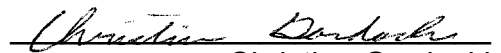
There was no dispute that the FAP benefit reduction was solely based on Claimant's alleged noncompliance with JET participation. Based on the finding that the non-compliance finding was improper, it must also be found that the FAP benefit reduction was also improper. It is found that DHS improperly reduced Claimant's FAP benefits due to an employment-related activity disqualification.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefits effective 9/2011. It is ordered that DHS shall:

- (1) reinstate Claimant's FIP benefits beginning 9/2011;
- (2) evaluate Claimant's ongoing FIP benefit eligibility from 9/2011;
- (3) supplement Claimant for any benefits, including FAP benefits, lost as a result of the improper finding of noncompliance; and
- (4) remove any disqualification from Claimant's disqualification history as a result of the improper finding of non-compliance.

The actions taken by DHS are REVERSED.


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

Date Signed: December 15, 2011

Date Mailed: December 15, 2011

2011-49219/CG

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.

CG/ctl

cc:

[REDACTED]

Oakland County DHS (04)/1843

[REDACTED]

C. Gardocki
File