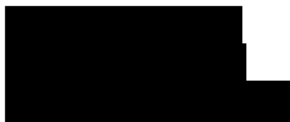


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201151716
Issue No.: 1038, 3003
Case No.: [REDACTED]
Hearing Date: October 12, 2011
Wayne County DHS (49)

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 October 12, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], Specialist, appeared and testified.

ISSUES

1. 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.
2. The second issue is whether DHS properly failed to update Claimant's Food Assistance Program (FAP) benefit eligibility effective 5/2011 based on a reported increase in rent.

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. On 4/21/11, Claimant reported an address change to DHS and an increase in rent.

3. DHS failed to process Claimant's reported changes in address and rent resulting in continued FAP benefits at an outdated rent amount and mailings to Claimant's incorrect address.
4. DHS mailed Claimant a JET Appointment Notice (Exhibit 2) scheduling Claimant to begin JET attendance on 6/13/11 at 8:00 a.m.
5. Claimant failed to attend the scheduled JET orientation.
6. On 7/18/11, DHS mailed Claimant a Notice of Noncompliance (Exhibit 4) regarding Claimant's failure to commence JET participation informing Claimant of a triage to be held on 7/26/11.
7. Claimant failed to attend the triage.
8. On 8/24/11, DHS mailed Claimant a Notice of Case Action (Exhibit 5) informing Claimant of a termination of FIP benefits based on Claimant's alleged noncompliance with JET participation.
9. On 8/31/11, Claimant requested a hearing disputing the termination of FIP benefits and disputing the failure by DHS to update her rent amount in determining FAP 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).

This decision will refer to the DHS regulations in effect as of 8/2011, the estimated month of the DHS decisions 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.*

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.*

In the present case, it was not disputed that DHS mailed a notice Claimant to commence JET participation beginning 6/13/11 (see Exhibit 2). It was also not disputed that Claimant failed to attend the appointment. Claimant's first contention was that she changed residences in 4/2011, reported the change to DHS, and DHS failed to process the change resulting in DHS mailing correspondence to an out-of-date address. In other words, Claimant contended that she was not noncompliant by failing to begin JET attendance because she did not know of the requirement and that was the fault of DHS.

The testifying DHS specialist was Claimant's worker at the time of the JET appointment mailing and would have been responsible for processing an address change for

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Claimant. The specialist testified that she did not recall receiving any telephone calls from Claimant concerning a change in address.

Claimant stated that she left a voicemail for her specialist in 4/2011 and 6/2011 reporting a change in address. Claimant also testified that she left a forwarding address at her previous residence and received some forwarded DHS documents but the DHS-4785 was not among them.

It is known that Claimant's hearing request specifically stated that numerous messages were left for her specialist concerning the address change. This written statement tended to corroborate Claimant's testimony. Generally, testimony is more credible when it is consistent with previous written statements.

Claimant also stated she had an incentive to report the change because of an increase in rent from \$500 to \$750 which may result in an increase in FAP benefits. Assuming that clients generally report information which potentially increases benefits, this also tends to support that Claimant reported the address change.

It is curious that the Notice of Case Action mailed by DHS on 8/24/11 (Exhibit 5) reflects Claimant's old address. That means that as of 8/24/11, Claimant's address had not been updated by DHS. Based on the four month lapse from the alleged reporting date of the address change, this tends to contradict Claimant's testimony.

It is also relevant that Claimant managed to receive the Notice of Case Action in a timely fashion even though it was not sent to her current address. Claimant stated she left a forwarding address which is why she received the wrongly addressed Notice of Case Action. Claimant must have received the notice quickly because the hearing request was submitted only seven days after it was mailed by DHS. It raises the question why Claimant would not have received the JET appointment notice (Exhibit 2) and the triage appointment notice (Exhibit 3) in as timely a fashion, even though they were equally misaddressed. Claimant clarified that she received one of the documents in a timely fashion but raised a separate argument about not needing to attend JET due to an obligation to care for her son.

It is also worth noting that DHS specialists are known to handle a caseload of hundreds of clients. It is exceptionally reasonable that a DHS specialist would occasionally err in overlooking information due to dramatically burdensome work expectations.

Although it cannot be stated with certainty, it is slightly more likely than not that Claimant left at least one voicemail for her specialist concerning a change of address and increase in rent. It is believed that the voicemail was left prior to the mailing of the DHS-4785 and that DHS failed to process the change resulting in a lack of notice for the

JET orientation. As it is found that Claimant did not receive notice of the JET orientation, it must be found that DHS improperly terminated Claimant's FIP benefits.

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 (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

Claimant raised a second issue that DHS failed to evaluate her FAP benefits based on a 4/2011 reporting of a rent increase. Claimant could not specify the exact date of change.

For FAP benefits, DHS must act on a change reported by means other than a tape match within 10 days after being aware of the change. BAM 220 at 5. For FAP benefit increases, changes which result in an increase in the household's benefits must be effective no later than the first allotment issued 10 days after the date the change was reported, provided any necessary verification was returned by the due date.

It is known that DHS did not request a verification of a rent increase and that Claimant did not submit verification of the rent increase. Thus, no definitive decision can be made concerning the effective date of the rent increase until DHS makes a request for verification and Claimant returns the verification.

It is believed that Claimant reported a rent increase in 4/2011. Claimant could not conclusively establish a date of reporting other than in 4/2011. Based on the limited evidence provided, a date of 4/21/11 will be found as the correct reporting date. Adding ten days to the date would create an effective month of 6/2011 as the earliest that DHS shall be required to recalculate Claimant's FAP benefits, if Claimant timely verifies the rent change.

DECISION AND ORDER

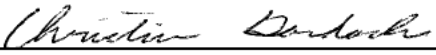
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefits effective 10/2011 and failed to evaluate Claimant's reported increase in rent effective 6/2011. It is ordered that DHS:

- (1) reinstate Claimant's FIP benefits beginning 10/2011;
- (2) supplement Claimant for any benefits lost as a result of the improper finding of noncompliance;

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- (3) remove any disqualification from Claimant's disqualification history as a result of the improper finding of noncompliance; and
- (4) redetermine Claimant's FAP benefit eligibility beginning 6/2011 in accordance with DHS regulations concerning a reported change in rent.

The actions taken by DHS are REVERSED.


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

Date Signed: October 20, 2011

Date Mailed: October 20, 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 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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