

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

IN THE MATTER OF:

[REDACTED]
[REDACTED] ENUE
[REDACTED]

Reg. No.: 2011-8471
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 5, 2011
Macomb County DHS (20)

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 January 5, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, [REDACTED] Manager, and [REDACTED], JET representative, 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) participation.

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 attended JET on 10/11/10.
3. On either 10/11/10 or 10/12/10, Claimant requested that she be able to attend college classes in lieu of JET participation.
4. JET informed Claimant on 10/12/10 that Claimant would have to return the following documents in order for JET to consider Claimant's request to attend school in lieu of JET: school schedule, program plan, and estimated end-date and print-out from the official school website.
5. Claimant failed to submit all of the needed documents to JET by 10/14/10.

6. JET considered Claimant's failure to submit all of the requested documents by 10/14/10 and considered Claimant noncompliant with JET participation.
7. On 10/27/10, JET mailed Claimant a Notice of Noncompliance scheduling a triage for 11/9/10.
8. Claimant failed to attend the triage.
9. On 11/9/10, DHS mailed Claimant a Notice of Case Action terminating Claimant's FIP benefits to be effective 12/2010.
10. On 11/23/10, 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 (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.

In the present case, it was essentially not disputed that Claimant stopped participation with JET. Claimant attended JET on 10/11/10. Either on 10/11/10 or 10/12/10, Claimant

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requested to JET that she attend college classes in lieu of JET participation. A JET representative advised Claimant to provide the following by 10/13/10 so that JET could consider Claimant's request: school schedule, program plan, estimated end date and an unspecified print-out from the school website.

On 10/14/10, it was not disputed that Claimant failed to obtain one of the JET requested documents concerning Claimant's college classes. JET considers Claimant's failure to be a basis for a finding of noncompliance.

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.

The issue of whether Claimant was noncompliant with JET participation is not appropriate for good cause analysis. Good cause analysis involves looking at Claimant's circumstances to determine whether Claimant's absence was excusable. In the present case, Claimant's explanation for her absence had to do with circumstances involving JET, not Claimant.

Claimant contended that she attempted to obtain the requested documentation of her college but was unable to do so by the JET deadline. Claimant further contended that JET essentially refused to accept any of Claimant's documentation.

The undersigned finds problems with JET's original finding of noncompliance. JET essentially conceded that Claimant had to submit certain documents for Claimant to be approved for JET participation while she attended college classes; this was a reasonable requirement. However, JET refused Claimant's partial paperwork. JET also refused to consider Claimant's reasonable explanation that she was unable to have a college staff member complete her needed document within the two days that JET expected the document. In support of JET, having a short deadline is not so unreasonable when considering the lengthy process involved in terminating FIP benefits based on noncompliance. In other words, Claimant could have submitted the missing documentation prior to her FIP benefit termination even if it was not obtained by the original deadline.

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*.

Though JET debatably gave Claimant an unreasonable amount of time prior to finding noncompliance, Claimant had ample time following the finding to submit the requested documents. After 10/14/10, Claimant had an opportunity to present the document at a triage held on 11/9/10; Claimant failed to attend the triage. Claimant testified that she was attending classes and could not attend though Claimant did not bother to reschedule the triage. Claimant never submitted her documentation to JET through the date of the administrative hearing. Claimant also failed to bring the documentation to the administrative hearing.

The issue then is whether Claimant reasonably failed to submit documentation of her college classes to JET. Claimant's excuse that one of the documents was not ready by JET's initial due date of 10/14/10 is reasonable. It is significantly less reasonable that Claimant would not have attempted to submit the documents after she allegedly obtained them.

Based on all of the evidence presented, it is found that Claimant unreasonably failed to submit required education verifications in lieu of JET participation. Claimant made little to no effort following 10/14/10 to satisfy the JET request. Accordingly, it is found that JET established noncompliance with JET participation by Claimant.

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 finding of noncompliance with JET participation. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

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Date Signed: 1/25/2011

Date Mailed: 1/25/2011

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 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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