

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201121684
Issue No. 1038
Case No. [REDACTED]
Hearing Date: March 23, 2011
Wayne County DHS (17)

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 March 23, 2011. The claimant appeared and testified; [REDACTED] also appeared as Claimant's translator. On behalf of Department of Human Services (DHS), [REDACTED], appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits dated 1/3/11 following Claimant's alleged failure to attend the Jobs, Education and Training (JET) program.

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 1/3/11, Claimant applied for FIP benefits.
2. On 1/3/11, DHS interviewed Claimant and advised Claimant of her right to apply for CDC benefits.
3. On an unspecified date, Claimant was scheduled to begin JET participation on 1/11/11.
4. Claimant states she attended JET but was told by JET personnel that she need not further attend.

5. On 1/27/11, DHS mailed Claimant a Notice of Case Action denying Claimant's application for FIP benefits due to a failure to attend JET.
6. On 2/1/11, Claimant requested a hearing disputing the denial 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.

Mandatory JET clients are referred to JET upon application for FIP. BEM 229 at 3. DHS is to inform clients of their JET appointment by manually issuing a JET Appointment Notice (DHS-4785) 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.*

WEIs meeting one of the below criteria are temporarily not referred to an employment service provider (i.e. JET) because they may continue to count in the state's federal work participation rate. BEM 230A at 7. The criteria includes: meeting participation through education, working 40 hours per week, lack of child care, care of child or post-partum recovery, local office discretion, domestic violence, VISTA or Americorps, aged 65 or older, Michigan Rehabilitation Services clients, Extended FIP recipients or persons claiming incapacity. *Id.* at 7-11.

Claimant's primary argument was that she went to JET on her scheduled appointment date and was told by a JET staff person that she need not attend further. DHS responded that if what Claimant stated was accurate, JET staff would have provided

some notes concerning Claimant's circumstances and/or would have informed DHS that Claimant was referred back to DHS. The DHS response presumes that JET personnel are reliable communicators; the undersigned has no evidence to believe this to be true. Ideally, DHS would have had enlisted the participation of a JET staff person that had information (or access to information) to rebut Claimant's testimony; no JET staff person was available to testify. Thus, DHS was helpless to rebut Claimant's testimony.

Though Claimant's testimony that she attended JET was unrebutted, it was also unverified testimony. Claimant stated that she presented JET with a document indicating that she was unable to attend JET due to child care issues. Had Claimant presented this document as evidence during the hearing, her testimony would have been much more persuasive. The failure to present the document tends to cast doubts on the accuracy of her testimony.

After Claimant was allegedly returned home by JET, Claimant never informed DHS of this event. Claimant testified that JET advised her to wait to hear from DHS rather than to call DHS. Though JET was not present at the hearing to rebut Claimant's testimony, the undersigned has difficulty accepting that JET would have made such a statement to Claimant. Even with such a statement, Claimant could have called DHS merely as a courtesy to inform them of the JET events.

Claimant also contended that she had medical conditions which prevented her JET participation. It was not disputed that Claimant failed to note any obstacles to attending JET in her Assistance Application. Claimant did not claim to have a disability in her application or make any other written references that would lead DHS to believe that Claimant was unable to attend JET. Claimant testified that she referenced being depressed to her specialist during her initial interview. Claimant provided no verification of her depression. Based on the totality of the evidence, the undersigned finds that Claimant failed to commence her JET assignment through no fault of DHS. Accordingly, it is found that DHS properly denied Claimant's application for FIP benefits based on Claimant's failure to begin JET participation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's application for FIP benefits dated 1/3/11 due to Claimant's failure to attend JET. The actions taken by DHS are AFFIRMED.



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

Date Signed: 04/01/11

Date Mailed: 04/06/11

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/dj

cc:

