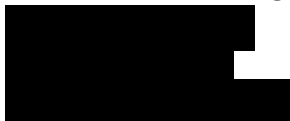


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201125029
Issue No.: 1038 3008
Case No.: [REDACTED]
Hearing Date: May 11, 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 May 11, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits and reduced Claimant's FIP benefits effective 3/2011 due to Claimant's alleged noncompliance with Jobs, Education and Training (JET) participation.

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 had a 35 hour/week JET obligation.
3. Claimant was an ongoing JET participant.
4. Claimant began participation with JET on 11/22/10.
5. Claimant stopped attending JET since an unspecified date during the week of 11/21/10.
6. DHS mailed Claimant a Notice of Noncompliance informing Claimant of a triage appointment scheduled for 2/15/11.

7. Claimant failed to attend the triage.
8. DHS determined Claimant had no good cause for failing to participate with JET.
9. DHS subsequently learned that Claimant might have had good cause for not attending JET and mailed Claimant medical forms to address Claimant's absence from JET.
10. Claimant failed to return the medical forms.
11. On an unspecified date, DHS terminated Claimant's FIP benefits and reduced Claimant's FAP benefits based on Claimant's noncompliance with JET.
12. On 3/10/11, Claimant requested a hearing to dispute the termination of FIP benefits and reduction of 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, 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.

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 WEI's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id*.

In the present case, Claimant stopped attending JET sometime during the week of 11/21/10. Several weeks later, it was not disputed that Claimant had not attended JET since the week of 11/21/10. It is found that Claimant's absences were sufficient to establish a basis for 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.

Claimant testified that he informed his then DHS specialist (now former specialist) about his medical issues that caused him to stop attending JET. Claimant stated after he told his specialist about the medical issues, the specialist was unsure how to proceed and never followed-up with Claimant; this testimony was not disputed and indirectly confirmed by DHS who testified that Claimant's former specialist was newly hired thereby implying that it would not be surprising if he was unsure how to follow-up with Claimant.

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 also testified that he did not receive the notice informing him of the triage. Claimant stated that the lack of notice is why he did not attend the triage. Claimant's specialist testified that she learned of Claimant's assertion of disability following the

triage, and she mailed Claimant's medical forms so that Claimant's assertion could be verified. Claimant stated he did not return these forms to DHS because he did not receive them.

Even if the undersigned finds that Claimant advised his former specialist of his medical problems, had an excuse to miss his triage because he did not receive notice and had an excuse for not submitting medical forms, the undersigned would expect Claimant to verify his good cause for not attending JET at the administrative hearing. Claimant did not verify good cause for his JET absence.

Claimant brought a doctor statement to the hearing. The doctor statement excused Claimant from JET participation beginning 2/2011. The note fails to address any of Claimant's absences prior to 2/2011. Claimant failed to bring any other documents verifying good cause from missing JET from 11/2010-1/2011. Accordingly, it is found that Claimant failed to establish good cause for his absence from JET.

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 result in a 3 month FIP closure. *Id*. The third occurrence results in a 12 month sanction. *Id*. It is found that DHS properly terminated Claimant's FIP benefits based on Claimant's noncompliance with JET participation.

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 Food Assistance Program pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015.

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

Clients meeting one of the criteria below are temporarily deferred from FAP employment-related activities:

- Age: Defer a person who is under age 16 or at least age 60, a 16- or 17-year old who is not the grantee or a grantee age 16 or 17 in special circumstances.
- Care of a Child: Defer one person who personally provides care for a child under age six who is in the FAP group.


- Care of Disabled Household Member: Defer one person who personally provides care for a disabled member of his/her own FAP group.
- Disability: Defer persons incapacitated due to injury, physical illness or mental illness.
- Education: A student enrolled up to half time in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion.
- Employment: Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days.
- Pregnancy: Defer pregnant women, beginning the seventh month of pregnancy or earlier if a pregnancy complication is medically documented.
- SSI-FAP Applicant: Defer applicants who apply for both SSI and FAP through the Social Security Administration. The application for SSI and FAP must be made at the same time.
- Substance Abuse Treatment Center Participant: Defer active participants in inpatient or outpatient programs for substance abuse treatment and rehabilitation. This does not include AA or NA group meetings. To verify use a verbal or written statement from the center.
- Unemployment Compensation (UC) Applicant or Recipient: Defer an applicant for or recipient of unemployment benefits. This includes a person whose unemployment benefits application denial is being appealed. BEM 230B at 3-5

It was not disputed that Claimant received FIP and FAP benefits simultaneously. Claimant did not assert any basis for deferral from FAP work requirements. Combined with the above finding that Claimant failed to comply with FIP employment related activities, it is found that Claimant was properly disqualified from FAP benefits.

A disqualification to Claimant in receiving FAP benefits is not an automatic termination of FAP benefits. It merely reduces the group size on which Claimant receives FAP benefits. In the present case, the FAP reduction was solely based on a reduction in group size based on an employment-related disqualification associated with JET. As the employment-related disqualification was found to be proper, it is also found that DHS properly reduced Claimant's FAP benefits.

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 and reduced Claimant's FAP benefits. The actions taken by DHS are AFFIRMED.


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

Date Signed: 5/26/11

Date Mailed: 5/26/11

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:

