

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-27191
Issue No. 1038
Case No. [REDACTED]
Hearing Date: April 28, 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 April 28, 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 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. On an unspecified date, DHS assigned Claimant to participate with JET for an unspecified amount of hours per week.
3. On 1/18/11, Claimant submitted a job log to JET at approximately 1:00 p.m.
4. DHS alleged that Claimant had a deadline on 1/18/11 by 9:00 a.m. to submit a job log.
5. DHS found Claimant to be noncompliant with JET participation based on Claimant's allegedly tardy job log submission.

6. On 2/7/11, DHS initiated termination of Claimant's FIP benefits based on Claimant's alleged failure to participate with JET
7. On 2/9/11, Claimant requested a hearing to dispute the FIP benefit termination.

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 FIP 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).

The undersigned will refer to the DHS regulations in effect as of 2/2011, the month of the DHS decision in 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.

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- 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, DHS alleged that Claimant's noncompliance with JET participation concerned a job log. A job log is a record of a client's pursuit of employment opportunities. Typical job logs will list names and addresses of employers and what the assigned JET participant did concerning obtaining employment with the listed employer. DHS alleged that Claimant failed to submit a job log by the JET deadline. It was not disputed that Claimant submitted his job log to JET at 1:00 p. m. on 1/18/11. DHS alleged that Claimant was supposed to submit the job log on 1/18/11 by 9:00 a.m.

It took DHS several attempts to explain how Claimant was noncompliant with JET participation. DHS first thought that the noncompliance occurred during the week containing 1/4/11. DHS was unsure whether the correct date the job log was to be

submitted was for 1/4/11 or 1/5/11. After Claimant mentioned that he understood the alleged noncompliance to concern Martin Luther King Jr. day (which occurred on 1/17/11), DHS then attempted to clarify that 1/17/11 was indeed the correct date that the noncompliance occurred. DHS then contended that Claimant was scheduled to submit the log on 1/17/11 and his failure to do so was noncompliance. DHS testified that the MWA administering JET was open to the public on Martin Luther King Day. Claimant responded that he attempted to turn his job log to the MWA on 1/17/11 but the agency was closed for the holiday. DHS then realized that Claimant's testimony was again correct and then finally settled on the allegation that Claimant should have turned in his job log on 1/18/11 by 9:00 a.m., not 1:00 p.m.

Overall, the DHS evidence concerning Claimant's allegedly late submission was exceptionally unpersuasive. Even accepting that a single four hour tardiness on a job log submission is sufficient to establish noncompliance and that the lastly testified to DHS allegation of noncompliance was the one that led to Claimant's FIP benefit termination, DHS provided no evidentiary support that Claimant's 1:00 p.m. was tardy. DHS testified about two documents allegedly signed by Claimant though neither document clarified whether Claimant's job log submission on 1/18/11 was tardy. DHS presented no JET staff persons to establish what the job log submission requirements were or that Claimant was aware of these requirements. It is found that DHS failed to establish noncompliance by Claimant in JET participation. Accordingly, it is found that DHS improperly terminated Claimant's FIP benefits.

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 3/2011. It is ordered that DHS shall:

- reinstate Claimant's FIP benefits back to 3/2011;
- supplement Claimant for any FIP or FAP benefits lost as a result of the improper finding of noncompliance;
- remove any disqualification from Claimant's disqualification history as a result of the improper finding of non-compliance.

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The actions taken by DHS are REVERSED.



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

Date Signed: May 4, 2011

Date Mailed: May 4, 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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