

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-27493
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 2, 2011
DHS County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on May 2, 2011. Claimant appeared and testified. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS properly terminated Claimant from the Jobs, Education and Training (JET) Program, thereby disqualifying her from the Family Independence Program (FIP) and the Medical Assistance (Medicaid or MA) program?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. On November 9, 2010, Claimant applied for FIP and MA benefits for herself and her daughter with DHS.
2. On November 9, 2010, DHS issued a (JET) Appointment Notice and gave it to Claimant at the application interview.
3. Claimant failed to appear at the JET intake appointment November 15, 2010, and failed to contact her DHS Specialist to reschedule it.
4. On December 3, 2010, DHS denied FIP and MA benefits to Claimant and granted MA benefits to Claimant's daughter.

5. On December 20, 2010, Claimant filed a hearing request notice with DHS.

CONCLUSIONS OF LAW

FIP was established pursuant to the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers the FIP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the U.S. Code of Federal Regulations. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in BAM, BEM and RFT. *Id.*

The DHS Administrative Manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

DHS cited BEM 230A, "Employment and/or Self-Sufficiency Related Activities: FIP/RAP [Refugee Assistance Program] Cash," in the DHS Hearing Summary that DHS prepared for this Hearing. BEM 230A follows Federal and State law, which require that every work-eligible individual must participate in the JET Program or other employment-related activities unless the person is temporarily deferred or engaged in other activities that meet participation requirements. BEM 230A.

While I agree that BEM 230A sets forth various requirements, in this case I find there is no dispute that such requirements exist. Therefore, I do not believe this Item is relevant, and I must look elsewhere in the manuals for more specific guidance.

Instead, I turn to the manual penalty section, which is BEM 233A, "Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP."

BEM 233A begins with a significant statement of the Department's Philosophy:

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. **Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency.** However, there are

consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency (sic) related assignments and to ensure that barriers to such compliance have been identified and removed. **The goal is to bring the client into compliance.**

Noncompliance may be an indicator of possible disabilities. **Consider further exploration of any barriers.** *Id.*, p. 1 (emphasis added).

I find that DHS makes it clear by this statement that its goal is to identify and remove barriers to employment and that the goal is not to penalize customers for failures and mistakes. I read this section also to mean that if the customer shows good cause for their action or failure to act, that event will be excused and will not be held against them, and the penalties will not apply.

Applying this section to the facts of the case before me, I find and conclude that the goals of DHS were not met in this case. I find that Claimant misunderstood the nature of the work requirement in the discussion at the application interview. Based on Claimant's testimony at the hearing, I believe she thought this involved light chores or part-time or freelance work assignments. I find that Claimant also failed to understand that her attendance at the JET appointment was mandatory. This is not equal to a refusal to cooperate in the program, and I rule that because she was cooperative and compliant, she is entitled to another opportunity to participate in the JET program.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE DHS' action in this case and return this case to DHS to reinstate Claimant's application, schedule another JET interview for her, and process her FIP and MA application in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, REVERSES DHS' denial of Claimant's FIP and MA benefits.

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IT IS HEREBY ORDERED that Claimant's application shall be reinstated, she shall be given another opportunity to participate in the JET program, and her application shall be processed in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 5, 2011

Date Mailed: May 5, 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.

JL/pf

cc:

