

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201129573
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 12, 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 12, 2011. The claimant appeared and testified; [REDACTED] appeared and testified on behalf of Claimant. 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 5/2011 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 and her child's father, [REDACTED] were mandatory JET participants.
3. Claimant had a 35 hour/week JET attendance obligation.
4. [REDACTED] had a 20 hour/week JET obligation.
5. Claimant stopped attending JET on 3/10/11.

6. [REDACTED] stopped his community service (as part of his JET participation) during the week beginning 3/6/11 because of medical problems associated with a gun shot wound.
7. [REDACTED] restarted his community service during the week beginning 3/27/11 and participated 16 hours that week and 8 hours the following week.
8. On an unspecified date, DHS scheduled a triage to be held on 4/6/11.
9. On 4/6/11, Claimant and [REDACTED] attended the triage with a DHS representative.
10. DHS determined that Claimant and [REDACTED] lacked good cause for JET participation.
11. On an unspecified date in 4/2011, DHS terminated Claimant's FIP benefits based on the alleged noncompliance with JET participation by Claimant and Mr. [REDACTED].
12. On 4/12/11, 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 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-

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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 illness 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*.

The present case involves two JET participants, Claimant and her child's father, Mr. [REDACTED]. DHS asserted that both members were noncompliant with their JET participation. The undersigned will examine the alleged noncompliance by Claimant and Mr. [REDACTED].

It was not disputed that Claimant participated in a JET approved externship through 3/9/11. According to DHS, following 3/9/11, Claimant was expected to return to JET on 3/10/11; DHS also testified that Claimant did not return on the expected return date. DHS stated that a warning letter was mailed to Claimant on 3/18/11 to which Claimant did not respond. Claimant did not deny the DHS allegations. It is found that Claimant's absence from JET beginning 3/10/11 through at least 3/18/11 is sufficient to establish noncompliance.

It was not disputed that [REDACTED] was absent for an unspecified three week period from sometime between 3/6/11 through 4/9/11. It is found that a three week period of absence is sufficient to establish a foundation 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.

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.*

██████████ asserted that his absence from JET was based on medical issues relating to a gunshot wound. DHS asserted that ██████████ failed to properly verify a basis for his absence but conceded that ██████████ verified a hospitalization related to a gunshot. DHS claimed that further medical documentation was needed from Mr. ██████████ and he failed to return the documentation. DHS failed to establish that the needed documentation was requested in writing. The undersigned is inclined to find good cause for Claimant's absence based on his verification of his hospitalization. DHS failed to explain why ██████████ documentation failed to verify good cause or required further verification of good cause. If DHS wanted more specific documentation, it would have been appropriate to make such a request in writing. As DHS failed to do so, the undersigned is not sympathetic to the DHS determination that ██████████ lacked good cause.

DHS also claimed that ██████████ was noncompliant even after restarting his JET participation. ██████████ performed community service in lieu of JET participation. It was not disputed that ██████████ performed 16 hours of service during the week of 3/27/11-4/2/11 and 8 hours during the week 4/3/11-4/9/11. The sixteen hour week is only four hours short of his 20 hour weekly obligation. DHS held a triage on 4/6/11 and found no good cause so it would not be improper for Claimant to stop performing community service if DHS already determined that he lacked good cause for noncompliance. It is found that ██████████ had good cause for his JET absence and DHS improperly found him to be noncompliant.

The noncompliance with Claimant is a separate issue. Claimant's only claim of good cause was a lack of transportation. Claimant testified that she called JET on multiple occasions to request bus tickets to attend JET; Claimant stated she never received a return phone call. Claimant also testified that she had no money to purchase bus tickets to attend JET. DHS responded that Claimant failed to make the above assertion during the triage on 4/2/11 which would tend to show that a lack of transportation was not a sincere reason for Claimant's JET absence.

"No transportation" as it relates to good cause is specifically defined by DHS regulations. It requires that the client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client. Even finding that Claimant's testimony was credible, the undersigned is inclined to find that Claimant had reasonably priced transportation available and was not entitled to halt her JET participation until she received a bus ticket from JET. Accordingly, it is found that Claimant was noncompliant with JET participation.

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*. 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 improperly found Claimant's child's father, [REDACTED] to be noncompliant with JET participation. It is ordered that DHS:

- remove any disqualification from [REDACTED] record based on the improper finding of noncompliance;
- supplement Claimant for any benefits not received as a result of the improper finding of noncompliance.

The actions taken by DHS are PARTIALLY REVERSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefits effective 5/2011 based on Claimant's noncompliance with JET participation. The actions taken by DHS are PARTIALLY AFFIRMED.



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

Date Signed: 5/27/11

Date Mailed: 5/27/11

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.

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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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