

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201137886
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: July 18, 2011
Wayne County DHS (18)

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 July 18, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified. [REDACTED] and [REDACTED], JET Representatives, also appeared and testified on behalf of DHS.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits 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 was an ongoing JET participant.
3. JET required that Claimant perform 7 hours of job search and 13 hours of community service to meet a 20 hour/week obligation.
4. Claimant was scheduled to begin a community service assignment on 3/14/11.

5. Claimant failed to attend her community service assignment and advised JET that she received a Notice to Quit and would instead spend her time finding a new residence.
6. Claimant also failed to report to JET on 3/17/11 and 3/24/11 for a weekly meeting with her JET specialist.
7. On 4/8/11, Claimant was found noncompliant due to her failure to fulfill the community service assignment.
8. On 4/15/11, a triage was held and it was determined that Claimant was noncompliant with JET participation.
9. Claimant did not attend the triage because she was hospitalized.
10. On 6/3/11, Claimant's FIP benefits were terminated effective 7/2011 because of alleged noncompliance with JET participation.
11. On 6/9/11, Claimant requested a hearing disputing 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 administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS 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 6/2011, the estimated month of the DHS decision 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.
- 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, Claimant was found noncompliant with JET participation due to Claimant's refusal to perform community service, and due to a failure to report to JET. It was not disputed that Claimant failed to report for her community service for, at least, a three week period beginning 3/14/11. Though Claimant attempted to comply with her weekly JET obligation by completing job search hours, Claimant does not have the right to determine how her JET time is spent. It is found that Claimant's failure to report for community service was a sufficient 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.

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 alleged that she received a Notice to Quit in 3/2011. A Notice to Quit serves as a warning to tenants that they have 30 days to move from a residence or face a court proceeding to determine whether the tenant should be evicted. Claimant states that during the time of her community service assignment in 3/2011, she had to be concerned about finding a new residence for herself and her children rather than attending a community service assignment. Claimant verified her testimony by presenting the Notice to Quit as an exhibit.

The undersigned has the advantage of looking at the issue in hindsight. It was not disputed that a court date for eviction did not occur until 6/2011. Thus, as it turned out, Claimant had several months before eviction was imminent. The undersigned however appreciates that as of 3/2011, Claimant could not have known how long it would take her landlord to initiate court proceedings.

The undersigned must determine whether receipt of a Notice to Quit is a legitimate basis to disregard an assignment for community service. The threat to Claimant's residence could conceivably be an unplanned event that would arise to good cause.

The 13 hour per week obligation was not a commitment that would have greatly distracted Claimant from her goal of finding suitable housing for her family. The undersigned was also persuaded by Claimant's failure to even attempt the community service. Had Claimant found the commitment so burdensome after some effort, the undersigned might have been more persuaded by Claimant's claim of good cause. Based on the totality evidence, it is found that Claimant was noncompliant with JET participation and lacked good cause for the noncompliance.

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 properly terminated Claimant's FIP benefits effective 7/2011. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

Date Signed: July 22, 2011

Date Mailed: July 22, 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.

CG/hw

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