

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201142286
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 10, 2011
Wayne County DHS (55)

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 August 10, 2011 from Detroit, Michigan. The claimant appeared and testified; Cheryl Green 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 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 and JET participant.
2. Claimant stopped JET attendance beginning 4/11/11.
3. On an unspecified date, DHS scheduled a triage to be held on 5/24/11 to discuss Claimant's basis for good cause for the absences from JET.
4. Claimant failed to attend the triage.

5. On 6/20/11, DHS mailed a Notice of Case Action informing Claimant that FIP benefits would be terminated effective 8/2011 due to noncompliance with JET participation.
6. On 7/6/11, 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 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.*

The WEI is considered noncompliant 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.*

In the present case, DHS alleged that Claimant failed to attend JET after 4/11/11. Claimant conceded her absence but contended that she received approval from an unspecified person at JET to begin online university courses in lieu of JET participation.

The undersigned considers Claimant's explanation to affect whether DHS should have found Claimant to be noncompliant rather than whether Claimant had good cause for the noncompliance. The distinction may be semantic but is important as it determines which DHS regulations are applicable.

DHS had no first-hand knowledge as to whether Claimant was, or was not, approved to attend Ashford University in lieu of JET participation. DHS could have brought an MWA representative as a witness to the administrative hearing but chose not to do so. In the absence of contradictory evidence, the undersigned is inclined to accept unrefuted testimony as accurate.

Though the undersigned accepts Claimant's testimony concerning being allowed to attend [REDACTED] in lieu of JET participation, Claimant still needs to verify participation in the online classes. This is something that Claimant should be able to easily verify so the undersigned finds no hardship in placing the burden on Claimant.

Claimant failed to bring any verification of her university attendance to the hearing. Claimant was given until the end of the hearing day to submit verification that she attended college shortly after 4/11/11, the date she last participated with JET. Examples of documents that would have sufficed as verification include: class schedule, Claimant's online class log-in records or a report card. Claimant failed to verify her attendance. Because Claimant was unable to verify her basis for not attending JET, the undersigned finds that Claimant did not participate in university classes in lieu of attending JET. Accordingly, DHS established a basis 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

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asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id.*

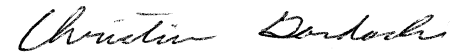
Claimant's only explanation for failing to attend JET went to whether she should have been found noncompliant, not whether she had good cause. Thus, good cause is irrelevant to the present case.

There was no relevant dispute that DHS followed all necessary procedures in terminating Claimant's FIP benefits based on noncompliance with JET participation. It is found that DHS followed all triage required procedures prior to terminating Claimant's FIP benefits.

Failure to comply with JET participation requirements without good cause results in FIP closure. *Id.* at 6. 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 8/2011. The actions taken by DHS are AFFIRMED.



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

Date Signed: August 12, 2011

Date Mailed: August 12, 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.