

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201145491
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 25, 2011
Oakland County DHS (02)

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 25, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] JET Coordinator, 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.
2. On an unspecified date, DHS scheduled Claimant to attend JET orientation on 4/20/11.
3. Claimant attended the 4/20/11 appointment but was told she should return to DHS prior to continuing because the JET worksite did not service residents from Claimant's city.
4. DHS rescheduled Claimant to attend a JET orientation on 5/9/11 at a proper location.

5. Claimant failed to attend the 5/9/11 appointment due to an alleged illness.
6. Claimant contacted DHS about being rescheduled for the 5/9/11 orientation and was verbally told to attend on 5/16/11.
7. Claimant attended the 5/16/11 orientation but was turned away because she was not given documentation authorizing her to attend the 5/16/11 orientation.
8. On 5/27/11, a triage was held in Claimant's absence.
9. DHS determined Claimant was noncompliant with JET participation.
10. On 7/5/11, DHS initiated termination of Claimant's FIP benefits effective 8/2011 based on Claimant's alleged noncompliance with JET participation.
11. On 7/22/11, 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 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 7/2011, 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.*

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.*

DHS determined that Claimant was noncompliant for failing to attend a JET orientation appointment for 5/9/11. Though missing a single appointment may be grounds for noncompliance, it is not necessarily so.

Claimant testified that she had a previous 4/20/11 appointment to attend JET. Claimant testified that she went, stayed and subsequently told to return to DHS because that JET worksite did not service persons within Claimant's city. Claimant's testimony tended to be verified by the DHS witness who confirmed that there was some history of the problem described by Claimant with that MWA. It was not clear whether Claimant was assigned to this JET location mistakenly by DHS or whether Claimant was mistakenly turned away from JET. It is clear that Claimant was not at fault for the problem. Looking only at this incident, it is difficult to find noncompliance by Claimant for failing to attend a subsequent JET orientation appointment when it was established that she already attended an orientation.

It was not disputed that Claimant failed to attend a rescheduled JET orientation on 5/9/11. Claimant stated she was ill that day and could not attend. Claimant stated she saw a physician but did not bring any documentation to verify her testimony. Good cause for noncompliance must be verified. BEM 233A at 8. These facts tend to support a finding of noncompliance.

Claimant testified that after missing the orientation, she was told by her DHS specialist to attend the 5/16/11 orientation. No additional documentation was given to Claimant by her DHS specialist. Claimant testified that she went to the 5/16/11 orientation but was turned away by JET because DHS failed to update Claimant's last date to attend the orientation in a database that DHS shares with MWAs. The DHS representative indicated Claimant's testimony was plausible, as this has been an issue in the past with MWA. It seems unlikely that a client would have sufficient knowledge of DHS and MWA workings to manufacture a plausible story about being turned away by the MWA for the reasons given by Claimant. It also did not help DHS that neither the processing specialist, nor a JET representative was able to rebut Claimant's testimony.

Based on the evidence, Claimant attended two orientations and failed to attend a third orientation. Claimant's failure to participate with JET beyond the orientations that she attended was the fault of either DHS and/or JET. A failure to attend a JET orientation when a client attended a JET orientation immediately before and after the missed orientation does not amount to noncompliance with JET participation. It is found that DHS improperly found Claimant to be 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 noncompliance results in a 3 month FIP closure. *Id*. The third occurrence results in a 12 month sanction. *Id*. As it was found that Claimant was compliant with JET participation, it is found that DHS improperly terminated Claimant's FIP benefits.

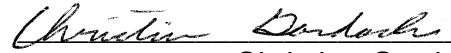
DECISION AND ORDER

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 8/2011. It is ordered that DHS:

- (1) reinstate Claimant's FIP benefits beginning 8/2011;
- (2) supplement Claimant for any benefits lost as a result of the improper finding of noncompliance;
- (3) remove any disqualification from Claimant's disqualification history as a result of the improper finding of noncompliance.

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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: August 30, 2011

Date Mailed: August 30, 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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