

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201146821
Issue No.: 1038, 5032
Case No.: [REDACTED]
Hearing Date: September 7, 2011
Wayne County DHS (31)

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 September 7, 2011 from Detroit, Michigan. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. The first issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with Jobs, Education and Training (JET) participation.
2. The second issue is whether DHS properly denied Claimant's State Emergency Relief (SER) application due to Claimant's alleged failure to verify a court-ordered eviction.

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 had a 25 hour/week ongoing JET participation requirement.
3. Claimant stopped JET attendance in approximately 10/2011, due to school attendance.

4. Claimant continuously attended school through 3/2011.
5. On 4/12/11, DHS initiated termination of Claimant's FIP benefits effective 5/2011.
6. In 3/2011, Claimant's residence burned down rendering it inhabitable.
7. On 4/6/11, Claimant applied for SER for assistance with relocation.
8. On 4/12/11, DHS denied Claimant's SER application because Claimant failed to verify a court-ordered eviction.
9. Claimant failed to receive either of the case action notices dated 4/12/11 due to problems with her mail following the fire at her residence.
10. On 7/29/11, Claimant requested a hearing to dispute the termination of FIP benefits and SER application denial.

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 4/2011, the month of the DHS decisions which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Generally, clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

Though it was not disputed that Claimant's hearing request occurred more than 90 days following the DHS case actions, Claimant was reasonably excused because she did not receive the case actions. Claimant testified that she reported a change of address to DHS following the fire to her residence in 3/2011. As a result, Claimant failed to receive the case actions at issue. Thus, the 90 day time limit for requesting a hearing is inapplicable.

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-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.*

In the present case, it was not disputed that Claimant stopped attending JET at some point around 10/2010. However, Claimant stated that she was approved to attend school in lieu of JET participation.

Claimant failed to bring any of her school records to the hearing. However, Claimant was able to verify her school attendance during the hearing by accessing her school records via internet. The testifying DHS specialist saw Claimant's school records and was persuaded that Claimant attended school from 10/2010 through 3/2011 based on the internet school attendance records.

It is plausible that the actual reason for noncompliance involved Claimant's failure to verify her school attendance rather than a failure to have an excuse for JET attendance. There is insufficient evidence to make such an assumption. If a client is able to verify school attendance during a time of alleged failure to participate with JET, that is very persuasive evidence that no noncompliance occurred. It is found that Claimant was compliant with JET participation. Accordingly, the FIP benefit termination was improper.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 at 1. SER applications involving relocation may only be approved if all other SER criteria are met and one of the following circumstances exists:

- The SER group is homeless;
- The SER group is potentially homeless;
- Adequate housing is needed to avoid foster care placement of a child;
- It is determined that a family must be relocated from unsafe housing for the protection of children
- SER group receives final notice to vacate condemned housing
- It is determined that the SER group lives in high-energy housing that cannot be rehabilitated. *Id. at 3.*

In the present case, Claimant applied for SER for assistance in paying for first month rent and security deposit. Claimant applied following a fire at her residence required her to find a new residence. Claimant testified that she submitted the fire report with her SER application. The DHS specialist who denied the application did not testify on behalf of DHS. DHS did not even have the SER application at issue to present as an exhibit. Based on Claimant's unrefuted testimony, it can only be concluded that Claimant verified the need for SER.

DHS conceded that the basis of the SER application denial was a failure by Claimant to verify a court-ordered eviction. However, DHS regulations do not require proof of an eviction for SER assistance needed following a fire. It is found that DHS improperly denied Claimant's SER application.

DECISION AND ORDER

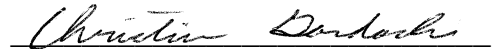
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated FIP benefits and denied SER assistance. It is ordered that DHS:

- (1) reinstate Claimant's SER application dated 4/6/11;
- (2) initiate the processing of the SER application in accordance with DHS regulations;
- (3) reinstate Claimant's FIP benefits effective 7/2011;
- (4) supplement Claimant for any benefits as a result of the improper DHS termination; and

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(5) remove any disqualification from Claimant's disqualification history as a result of the improper finding of noncompliance.

The actions taken by DHS are REVERSED.


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

Date Signed: September 14, 2011

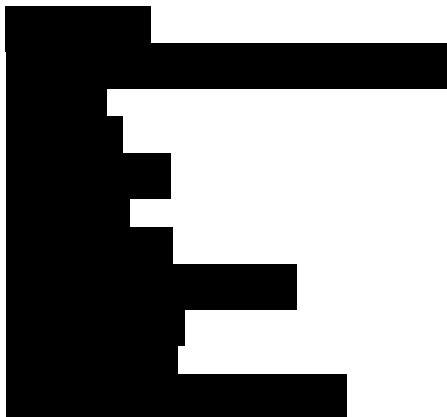
Date Mailed: September 14, 2011

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.

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