

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201146861
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 7, 2011
Wayne County DHS (19)

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. On behalf of Department of Human Services (DHS), [REDACTED], JET Coordinator, [REDACTED], Triage Coordinator, [REDACTED], Specialist, [REDACTED], Michigan Works! Agency (MWA) Representative, and [REDACTED], MWA Representative, appeared and testified.

ISSUE

The 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.

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. On 4/8/11, Claimant ceased JET participation.
4. On 4/22/11, a reengagement meeting was held between JET personnel and Claimant concerning the need for Claimant to restart JET attendance or face a penalty of noncompliance.

5. Claimant did not attend JET again.
6. In 6/2011, Claimant learned that she was pregnant and facing obstacles related to her pregnancy.
7. On 6/1/11, DHS mailed Claimant a Notice of Noncompliance which scheduled a triage meeting to be held on 6/9/11.
8. On 6/9/11, a triage was held and Claimant failed to appear.
9. On 6/11/11, DHS initiated termination of Claimant's FIP benefits effective 7/2011 due to noncompliance with JET participation.
10. On 7/26/11, 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 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.*

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 after 4/8/11 through 5/2011 but for the date of 4/23/11 when Claimant attended a reengagement meeting with JET staff. The nearly two month absence from JET participation is a sufficient amount of time to establish noncompliance with JET participation.

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 contended that she was ill during the noncompliance period of 4/8/11-5/30/11 and that is why she was absent from JET participation. Claimant brought medical documentation to the administrative hearing verifying pregnancy issues in 6/2011. Claimant’s medical documentation failed to provide an excuse for her prior two month absence.

Claimant contended that though her documentation addressed only 6/2011, the problems affected her participation in prior months. Though Claimant makes a reasonable point, it is not so persuasive to excuse her from the seven week period of JET that she missed. It is found that Claimant’s medical excuse provides good cause for no more than two weeks in 5/2011 leaving Claimant with five weeks of unexcused absences. This time period is still sufficient to establish noncompliance. Accordingly, it


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is found that Claimant failed to establish good cause for the noncompliance with JET participation.

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 7/2011. The actions taken by DHS are AFFIRMED.


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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