

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201147227
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: September 15, 2011
Wayne County DHS (17)

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 15, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, 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. Claimant had a 20 hour/week obligation to attend JET.
4. The Michigan Works! Agency administering the JET program allowed Claimant to attend school in lieu of JET participation.
5. For some unspecified weeks, Claimant failed to meet an unspecified amount of JET participation.

6. In 6/2011, Claimant learned that she was pregnant and faces 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 7/19/11, a triage was held which Claimant attended.
9. Subsequent to the triage, DHS determined that Claimant lacked good cause for the alleged failure to meet the weekly participation requirement, but allowed Claimant to attend a one day compliance test on 7/22/11 to regain compliance.
10. On 7/22/11, Claimant was one hour late for the compliance test and was told by JET she need not stay due to Claimant's need to attend a court hearing concerning a domestic violence dispute.
11. On an unspecified date, DHS initiated termination of Claimant's FIP benefits effective 9/2011 due to alleged noncompliance with JET participation.
12. On 8/8/11, 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 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 action notices. Claimant testified that she reported a change of address to DHS following the fire to her residence in 3/2011. As a result of the DHS

failure to update the address, the case actions were mailed to Claimants old address. Because Claimant did not receive the written notices of case action, 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, DHS knew Claimant failed to verify a 20 hour per week obligation to attend JET. However, DHS could not identify which weeks Claimant failed to meet the 20 hour requirement or identify for how many hours Claimant fell short of the requirement. Without specifics as to when and how much Claimant failed to meet her requirement, noncompliance cannot be established. Claimant conceded some failure to meet the JET participation requirement. However, it is not known whether the failure is sufficient to establish noncompliance.

The lack of specifics is problematic for DHS for two reasons. First, clients are given some leeway in JET attendance. Perhaps Claimant only missed less than 16 hours within a calendar month. In such a case, Claimant would not likely be found noncompliant because DHS regulations allow for some excused absences.

Secondly, without a description of dates and hours, Claimant is deprived the opportunity to establish good cause for missing those dates. Claimant alluded to various dates when she missed due to legal obligations involving a domestic violence dispute. It

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cannot be determined whether the dates Claimant had court dates were good cause or not because it is not known which specific dates and hours that Claimant missed. It is found that DHS failed to establish noncompliance by Claimant. As it was not disputed that the only basis for the FIP benefit termination was a lack of good cause, it is found that the FIP benefit termination was improper.

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 9/2011. It is ordered that DHS:

- (1) reinstate Claimant's FIP benefits beginning 9/2011;
- (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.

The actions taken by DHS are REVERSED.


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

Date Signed: September 20, 2011

Date Mailed: September 20, 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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