

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201154856
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 20, 2011
Wayne County DHS (49)

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 October 20, 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 had an unspecified weekly obligation to attend JET.
3. Claimant stopped attending JET on 6/27/11.
4. After 6/27/11, Claimant performed 16 hours/week of her JET obligation by volunteering her services to assist with an elderly woman and an additional 4 hours/week of job search.
5. JET did not receive Claimant's verification of volunteer work and job search.

6. On an unspecified date, DHS found Claimant to be noncompliant with JET participation and scheduled a triage on 8/10/11.
7. Claimant failed to attend the triage.
8. DHS subsequently initiated termination of FIP benefits effective 9/2011
9. On 9/26/11, Claimant requested a hearing to dispute the termination of FIP benefits.

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 controlling DHS regulations are those that were in effect as of 8/2011, 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 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

201154856/CG

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 Claimant did not participate with JET from 6/27/11 through 7/2011. If established, this time period would be sufficient to establish a basis for noncompliance.

Claimant contended that she was not noncompliant because she participated in 16 hours/week of volunteer activities and an additional 4 hours/week of job search during the alleged period of noncompliance. Claimant brought documentation to the hearing which tended to verify her testimony. Claimant also testified that she submitted the documentation to her MWA and does not understand why she would have been found noncompliant.

Claimant's testimony, on its face, sounded credible. Claimant brought documentation to the hearing which tended to support that she participated in the volunteer and job search activities to satisfy her JET requirement. Claimant's volunteer activity sounded somewhat manufactured as it involved assisting one person with her errands. Volunteer activities involving non-profit organization which are verified on company letterhead are a much more credible verification of community service.

Further, it was never clarified why Claimant failed to attend the triage. It would be reasonable to expect a client that supposedly submitted documents to JET to use the triage meeting as a forum to disprove the noncompliance allegation. For some unspecified reason, Claimant did not attend her triage.

In response to Claimant's evidence, DHS provided no first-hand evidence of Claimant's noncompliance. DHS provided JET notes containing hearsay statements that Claimant failed to submit verification of her community service. More credibility must be given to Claimant's evidence because Claimant gave supporting testimony. The JET notes may have been given more weight had an MWA representative appeared for the administrative hearing to testify concerning the authenticity and accuracy of the notes. Based on the presented evidence, it is found that Claimant was compliant with JET participation.

It was not disputed that the FIP benefit termination rested solely on the finding of noncompliance. As it was found that Claimant was compliant with JET participation, 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 shall:

- (1) reinstate Claimant's FIP benefits back to 9/2011;
- (2) supplement Claimant for any benefits lost as a result of the improper finding of noncompliance; and
- (3) remove any disqualification from Claimant's disqualification history as a result of the improper finding of non-compliance.

The actions taken by DHS are REVERSED.



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

Date Signed: October 21, 2011

Date Mailed: October 21, 2011

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

201154856/CG

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

