

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-7609
Issue No.: 1038/6019
Case No.: [REDACTED]
Hearing Date: December 16, 2010
Wayne County DHS (41)

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 December 16, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUES

1. Whether DHS properly terminated Claimant's Child Development and Care (CDC) benefits due to Claimant's failure to have a need for the CDC benefits.
2. Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits based on Claimant's alleged failure to participate with Jobs, Education and Training (JET).

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing FIP and CDC benefits recipient.
2. Claimant was required to attend JET as part of her FIP benefit requirements.
3. Claimant's only reason for needing CDC benefits was her requirement to attend JET.

4. On 7/26/10, DHS conducted a triage and determined that Claimant was non-compliant with her JET participation.
5. On 7/29/10, DHS terminated Claimant's CDC benefits because she no longer had a need for CDC benefits and Claimant's FIP benefits based on Claimant's alleged failure to participate with JET.
6. The 7/29/10 termination of CDC and FIP benefits were to take effect on 8/9/10.
7. On 8/3/10, Claimant requested a hearing disputing the termination of her FIP and CDC benefits.
8. DHS and Claimant currently agree that Claimant was compliant with JET participation and that DHS erred in terminating Claimant's FIP benefits.
9. DHS and Claimant currently agree that Claimant had no need for CDC benefits and that DHS properly terminated Claimant's CDC benefits.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

BEM 703 lists the requirements for CDC eligibility. It reads, eligibility for CDC services exists when DHS has established all of the following:

- There is a signed application requesting CDC services.
- Each parent/substitute parent (P/SP) is a member of a valid eligibility group.
- Each P/SP meets the need criteria as outlined in this item.
- An eligible provider is providing the care.
- All eligibility requirements are met. BEM 703 at 1.

Looking at the "need criteria" requirement of CDC benefits, there are four valid CDC need reasons. *Id* at 3. Each parent/substitute parent of the child needing care must

have a valid need reason during the time child care is requested. *Id.* Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of: family preservation, high school completion, an approved activity or employment. *Id.* CDC eligibility ends based on an approved activity need reason when the client is no longer participating with JET (or other employment agency) or the need no longer exists. *Id.*

In the present case, DHS and Claimant agree that DHS properly terminated Claimant's CDC benefits on 7/29/10. Both parties also agree that Claimant did not have a need for CDC benefits effective 7/29/10. As the parties agree that DHS properly terminated Claimant's CDC benefits and the agreement appears to be supported by DHS policies, the undersigned accepts the agreement of the parties that DHS properly terminated Claimant's CDC benefits on 7/29/10.

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.* The Department of Human Services (DHS), formerly known as the Family Independence Agency, administers the FIP program pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 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.

In the present case, DHS held a triage on 7/26/10 and determined that Claimant was noncompliant with her participation with JET; based on this determination, DHS

subsequently terminated Claimant's FIP benefits. Claimant disputes the determination of noncompliance with JET participation.

Currently, DHS and Claimant agree that Claimant was compliant with JET participation and that DHS erred in terminating Claimant's FIP benefits beginning benefit month 9/2010. As the agreement between DHS and Claimant was supported by the presented evidence and DHS policies, the undersigned is inclined to accept the agreement between Claimant and DHS concerning the termination of Claimant's FIP benefits. The below decision and order reflects this finding.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law and by agreement of the parties, finds that DHS properly terminated Claimant's CDC benefits on 7/29/10 to be effective 8/9/10. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law and by agreement of the parties, finds that DHS improperly terminated Claimant's FIP benefits on 8/9/10 to be effective benefit month 9/2010. DHS is to reinstate Claimant's FIP benefits back to the date of FIP benefit closure and Claimant is to be supplemented for any benefits not received because of the improper FIP benefit termination. DHS shall also remove any noncompliance disqualification from Claimant's disqualification history stemming from the improper determination of noncompliance. The actions taken by DHS are PARTIALLY REVERSED.



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/21/2010

Date Mailed: 12/21/2010

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.

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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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