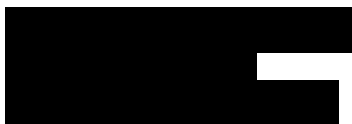


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 2012 13002  
Issue No.: 1038  
Load No.: [REDACTED]  
Hearing Date: December 21, 2011  
Oakland County DHS (02)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**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 21, 2011 from Detroit, Michigan. The claimant and her spouse [REDACTED] appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], JET Coordinator appeared and testified. [REDACTED] of Michigan Works also appeared and testified as a witness for the Department.

**ISSUE**

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. The Claimant and her husband attended JET orientation and were assigned to attend Work First for a total of 35 hours weekly.
3. The Claimant's spouse worked approximately 25 hours weekly as a cook, and the Claimant was advised that she had to attend JET for 10 hours per week so that the 35 hour requirement was met.

4. The Claimant was found in non compliance for attendance for the weeks beginning 9/25/11 and 10/2/11. The claimant did not attend the week beginning 9/25/11 and attended 8 hours for the week of 10/2/11.
5. On 10/18/11 the Department sent separate Notices of Non Compliance to both the Claimant and her spouse scheduling a triage on 10/26/11. Exhibits 5 and 9.
6. The Notices of Non Compliance were sent to the correct address.
7. A triage was held on 10/26/11 and the Department found no good cause for non compliance.
8. The Claimant and her spouse did not attend the triage.
9. After the hearing, the record was left open until 5PM on December 21, 2011 to allow the Claimant to fax a document to the Department and this ALJ in support of good cause or excused absence. No document was received.
10. A Notice of Case Action dated November 10, 2011 closed the Claimant's FIP case effective 12/1/11 for non compliance with work related activities and imposed a 3 month sanction.
11. On 11/13/11, Claimant requested an administrative 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).

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 non deferred individual who is assigned to attend Work First 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 Work First participant'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, Claimant did not begin her JET participation when scheduled after orientation. It was not disputed that Claimant did not attend the week beginning 9/25/11 and attended 8 hours for the week beginning 10/2/11. The Claimant participation requirement at the time was 10 hours of JET a week. The Claimant attended 8 of the required 20 hours of required attendance during a two week period. As a result of the Claimant's non attendance, the department found the Claimant and her spouse in non compliance and scheduled a triage.

The Claimant testified that she was advised that she did not have to attend the first week of Work First (week beginning 9/25/11). This contention is not supported by the evidence. The Jet Case notes indicate otherwise and indicate that on 9/26/11, the day after the Claimant was to have started attending Work First, the Claimant was contacted by the program and advised that she must attend each week for 10 hours per week.

As regards the second week of attendance, the Claimant was offered an opportunity to present evidence after the hearing documenting that she had to attend court regarding child support issues and could not be present at Work First which would have supported a possible excused absence, however, no such document was received. Based upon the evidence presented it is found that the Department correctly determined that the Claimant failed to meet the Work First participation requirements and properly closed and sanctioned her FIP case.

The Claimant and her spouse both were sent Notices of Non Compliance which they testified they did not receive. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case it must be found that the Notice of Non Compliance was received as the presumption of receipt of the notices was not

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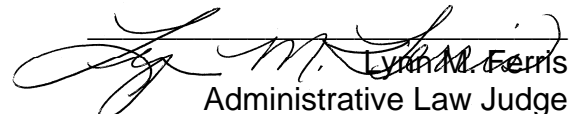
rebutted. Therefore there is no basis to excuse the missed triage appointment, or to form a basis to find another triage should be held for lack of notice.

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.

Based on the presented evidence, Claimant also failed to establish a basis for good cause for her JET participation absences. It was not disputed that Claimant's noncompliance with JET participation was the basis for the FIP benefit termination. As it was established that Claimant was noncompliant with JET participation, it is found that DHS properly terminated Claimant's FIP benefits.

### **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 12/1/11 based on noncompliance with JET participation. The actions taken by DHS are AFFIRMED.

  
Lynn M. Ferris  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 12/28/11

Date Mailed: 12/28/11

**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).

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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.

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

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cc:

