

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2012887  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: October 26, 2011  
Oakland County DHS (02)

**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 26, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), L [REDACTED], Specialist, and [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. On 7/28/11, Claimant applied for FIP benefits.
2. Claimant informed DHS that she suffered from a long-term incapacity which would prevent participation with JET.
3. On an unspecified date, DHS provided Claimant with an appointment to attend JET which Claimant did not attend.
4. On 8/2/11, DHS mailed Claimant a Verification Checklist (VCL) (Exhibit 1) with an 8/12/11 due date requesting various items including separate verification requests concerning "disability" and "employment services".

5. The 8/2/11 mailing also included a DHS-54E, one of the acceptable verifications for employment services.
6. On 8/19/11, DHS mailed Claimant a second VCL (Exhibit 2) with an 8/23/11 again requesting verifications related to disability and employment services.
7. Claimant failed to return the DHS-54E to DHS.
8. On 8/24/11, DHS mailed a VCL to Claimant with a due date of 9/6/11 which requested verification of disability, but not employment services.
9. On 8/25/11, DHS denied Claimant's application for FIP benefits due to Claimant's failure to timely submit a DHS-54E.
10. On 9/13/11, Claimant requested a hearing to dispute the denial 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 (MWA). *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.*

Mandatory JET clients are referred to JET upon application for FIP. BEM 229 at 3. DHS is to issue a manual correspondence, DHS 4785, JET Appointment Notice from Bridges at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory JET participant. *Id.* at 4. When assigned, clients must engage in and comply with all JET assignments while the FIP application is pending. *Id.* JET engagement is a condition of FIP eligibility. *Id.*

In the present case, it was not disputed that Claimant failed to timely or adequately participate with JET. Claimant went to JET on 8/29/11, after DHS denied Claimant's application for FIP benefits. However, it was not disputed that Claimant only went to JET for one day and did not participate any further. An email (Exhibit 4) from the MWA indicates that the failure by Claimant to continue participating was the choice of MWA, not by Claimant. The email stated Claimant was banned from the MWA due to her behavior, while also indicating that Claimant sought a deferral based on long-term incapacity. Claimant did not allege that she wanted to pursue JET participation but was prevented from doing so; she only alleged that DHS wrongly denied her on a failure to provide documentation related to JET deferral based on long-term disability.

When an individual claims to be disabled or indicates an inability to participate in work or the work participation program for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. BEM 230A at 10. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. *Id.*

Once a client claims a disability he/she must provide DHS with verification of the disability when requested. *Id.* The verification must indicate that the disability will last longer than 90 calendar days. *Id.* If the verification is not returned, a disability is not established. *Id.* The client will be required to fully participate in the work participation program as a mandatory participant. *Id.* If the client claims a disabling condition expected to last more than 90 days, it must be verified by one of the following: note from client's doctor, DHS-49, DHS-54A or DHS-54E. *Id.* at 20.

Verifications and their timeliness are discussed elsewhere within DHS regulations. For all programs, DHS must request verifications when required by policy. BAM 130 at 1. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 at 1.

Bridges sends a DHS 1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). *Id.* For FIP benefits, DHS is to send a negative action notice when the client indicates a refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 at 5.

It was not disputed that Claimant did not specifically provide a DHS-54E. DHS contended that the failure by Claimant to return a DHS-54E justified a denial of Claimant's application for FIP benefits. Claimant responded that she returned several medical documents and records to DHS and that she had little reason to believe that a failure to return the DHS-54E would cause her application to be denied.

The first VCL (Exhibit 1) issued by DHS was mailed to Claimant on 8/2/11. DHS requested verification of disability. The VCL specifically cited any one of the following as acceptable verifications: medical records about disability, proof of death or receipt of Social Security Administration (SSA) benefits. The VCL separately requested verification of "employment services". Acceptable employment service verification included any one of the following: statement confirming temporary critical event, statement from MD/DO, application for SSA benefits, statement from Early On coordinator, statement from Child Care Coordinating Council, DHS-49, DHS-54A or DHS-54E.

Based on the actual VCL, a DHS-54E is not the only document which satisfies the employment services request. Claimant could have satisfied the DHS request by alternatively submitting a statement from her physician or any of the above listed acceptable documents. Thus, DHS cannot consider a DHS-54E to be a mandatory document when their own VCL allows for alternatives.

If Claimant could have established that she submitted one of the acceptable alternatives to the DHS-54E, it could easily be found that DHS improperly denied Claimant's FIP benefit application. Claimant testified that she submitted several medical records but did not specifically cite any of the specific items listed on the VCL. Thus, it cannot yet be determined whether Claimant satisfied the VCL request.

It was not disputed that Claimant received a DHS-54E with the 8/2/11 dated VCL. The fact that a second VCL was issued to Claimant tends to show that Claimant knew that she still needed to return documents to DHS. DHS testimony concerning discussions with Claimant around the time of the VCL mailings and the employment services request on two VCLs support finding that Claimant knew or should have known that a DHS-54E (or equivalent) was a needed document to be deferred from JET participation.

Another document was presented which tends to show that Claimant knew of the necessity to submit a document. DHS presented the email (Exhibit 4) from a JET provider to DHS dated 9/21/11 cited a statement made by Claimant that she needs to submit some unspecified document to DHS; it is presumed the document concerned Claimant's allegation of long-term disability. Though the evidence is hearsay within hearsay, it tends to show that around 9/21/11, Claimant believed she had time to submit a document to DHS concerning verifying a claim of long-term disability.

There was evidence that also supported why Claimant might have believed that the DHS-54E was not a necessary document. The VCL dated 8/24/11 giving Claimant until 9/3/11 to verify disability tends to show that Claimant would logically believe she had additional time to submit documentation concerning JET deferral. DHS indicated that the extension applied only to "disability" and distinguished the request from previous "employment services" requests which listed a DHS-54E as an acceptable verification.

The VCL dated 8/24/11 raises two questions that were not sufficiently answered during the hearing. It is not known why DHS would have requested verification of disability (opposed to employment services) concerning Claimant's FIP benefit application (as stated by the VCL) if it did not concern a JET deferral. If there is some logical explanation for the request, it is not known why DHS would not have extended the VCL due date for the employment services request with the disability request. Instead, DHS denied the FIP benefit application on 8/25/11, well before the 9/3/11 due date for the "disability" request. These issues are problematic for DHS. The third VCL would have led Claimant to reasonably believe that she had additional time to return documentation concerning long-term disability.

Though some of the evidence supported the DHS contention that Claimant was properly denied FIP benefits, there was more evidence supporting the contention that DHS was premature on the denial. Accordingly, it is found that DHS improperly denied Claimant's application for FIP benefits.


The above finding does not result in a finding that Claimant is eligible for FIP benefits. The proper remedy is that Claimant is entitled to additional time to submit a basis for JET deferral based on long-term disability.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application dated 7/28/11 for FIP benefits. It is ordered that DHS:

- mail Claimant a VCL specifically requesting any outstanding documents needed for JET deferral based on long-term disability.

The actions taken by DHS are REVERSED.

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

2012887/CG

Date Signed: November 1, 2011

Date Mailed: November 1, 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.

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:

