

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20139726
Issue No: 1038
Case No: [REDACTED]
Hearing Date: January 31, 2013
Bay County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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, an in-person hearing was held on Thursday, January 31, 2013. Participants on behalf of Claimant included the claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Was good cause established for non-compliance with 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. On May 1, 2012 claimant applied for FIP/FAP.
2. On May 3, 2012 the DHS gave the claimant medical verification forms regarding a JET deferral, with a return date of May 11, 2012.
3. On September 28, 2012, MRT denied the deferral for JET.
4. On October 1, 2012 the DHS notified claimant to appear, as a mandatory participant, at JET orientation on October 15, 2012; she did not appear.
5. On October 25, 2012 the DHS withholds FIP/FAP termination with a triage appointment on November 1, 2012; claimant did not appear or call disregarding the meeting and the DHS determined no good cause for claimant's non-compliance with the JET program.

CONCLUSIONS OF LAW

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency related activities. Non-compliance of applicants, recipients, or member adds means doing any of the following, in pertinent part, without good cause:

Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

• Failing or refusing to:

•• Appear and participate with the PA TH or other employment service provided BEM233a, Pg. 1.

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. BEM233a, Pg. 3.

If a participant is active FIP and F AP at the time of FIP non-compliance determination of FAP good cause is based on the FIP good cause reasons outlined in the BEM233a. For the FAP determination, if the client does not meet one of the FIP good cause reasons determined the FAP disqualification based on FIP deferral criteria. BEM, Pg. 2.

Claimant testified that the medical verification form was given to her physician and believes she had been approved for the JET deferral; that she learned later on that it had not been returned to the DHS; that she followed up with the physician and learned that her verification form had been placed in a garbage bag by the physician's secretary who was subsequently fired; and that she notified the DHS of the incident on January 2, 2013.

She claims that her doctor will now verify that she cannot perform JET activities due to severe left knee impairment; that she is unable to work; and that she depends on her boyfriend to carry her about her home.

The objective medical evidence of record does not establish the claimant's inability to perform JET education/training activities nor disabling, severe left knee impairment.

The medical evidence of record states the claimant cannot do any work; that her gait and posture are abnormal; that she is unable to walk without the use of a cane or walker; that she has a need for assistance with her personal needs; that she required the use of a cane for her medical visitation; and that she has past work experience as a telemarketer phone operator.

The issue in this case is not whether the claimant can work. It is whether or not she non-complied with the JET education and training program for the purpose of preparing her for work with limitations. The medical evidence established the claimant's residual functional capacity for walking with the use of a cane; and that the telemarketing phone

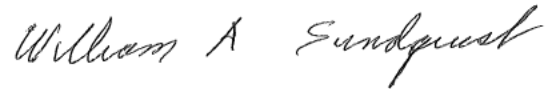
operator is, in essence, a sedentary type sit-down job. JET was not given the opportunity to educate and train the claimant for this type of work with limitations.

Claimant has not sustained her burden of proof to establish that it was beyond her control to have attended JET on October 15, 2012. Therefore, good cause has not been established.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that good cause for non-compliance with JET has not been established.

Accordingly, FIP/FAP termination is **UPHELD**.



William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 12, 2013

Date Mailed: February 12, 2013

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.

WAS/hj

cc:

