

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-12158  
Issue No: 1038; 3029  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 25, 2009  
Gladwin County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on March 25, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and sanction upon the claimant for non-compliance with work-related activities?

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 FIP recipient in Gladwin County.
- (2) Claimant had been deferred from the JET program pending the outcome of her disability application with the Social Security Administration.

(3) Claimant received an unfavorable hearing decision from the Social Security Administration and was referred back to the JET program.

(4) After contending that she had long term incapacity, claimant was deferred from the JET program pending receipt of medical verification.

(5) Claimant was referred to MRS on 8-8-08 for a consultation to determine the extent of claimant's alleged incapacity.

(6) On 9-23-08, a consultation request form was returned to DHS which stated that claimant had refused to cooperate with MRS and had told them that she did not wish to utilize their services.

(7) On 9-29-08, a DHS-3503, Verification Checklist, was provided to claimant to allow her to get medical documentation regarding her alleged disability.

(8) Claimant failed to return medical documentation.

(9) Claimant was referred back into the JET program and told to attend orientation on 10-6-08.

(10) Claimant did not attend this orientation.

(11) Claimant contacted JET officials and requested a second chance to attend orientation.

(12) This request was granted and claimant was scheduled to attend a JET orientation on 10-13-08.

(13) Claimant did not attend this orientation.

(14) On 10-13-08, a DHS-2444, Notice of Noncompliance was sent out, scheduling a triage for 10-21-08.

(15) Claimant contacted her caseworker on 10-13-08, to alert her that the reason she did not attend the orientation was because she had a job interview.

(16) Claimant also advised her caseworker that she wished to be referred back to MRS so that she did not have to participate in the JET program.

(17) Claimant's caseworker advised claimant that this would be acceptable.

(18) On 10-13-08, a DHS-517, Consultation Request, was sent to MRS with regard to claimant.

(19) On 10-27-08, claimant was sent an appointment notice by MRS, scheduling an appointment for 11-6-08 at 8:30am.

(20) Claimant contacted MRS on 11-3-08 to cancel the 11-6-08 appointment.

(21) Claimant advised MRS that she needed an appointment in the morning, due to claimant's current job responsibilities.

(22) On 11-10-08, MRS sent a second appointment notice to claimant, scheduling a meeting on 11-20-08 at 9am.

(23) Claimant did not attend this meeting.

(24) Claimant did not contact MRS with regard to this missed appointment.

(25) On 11-26-08, MRS sent a third appointment notice to claimant, scheduling a meeting on 12-9-08, at 1:30pm.

(26) Claimant did not attend this meeting.

(27) Claimant did not contact MRS with regard to this missed appointment.

(28) On 12-19-08, MRS returned the DHS-517 to claimant's caseworker, alerting her to the fact that claimant had missed 3 appointments.

(29) On 1-13-09, claimant's caseworker sent out another DHS-2444, scheduling a triage on for 1-20-09.

(30) On 1-15-09, a phone triage was held with the claimant. Caseworker completed a DHS-71, Good Cause Determination, finding that the claimant did not have good cause after claimant was unable to adequately explain her missed MRS appointments, was only working 2 hours daily, and was fully aware of the requirements, having requested to be sent back to MRS in the first place.

(31) Claimant's case was placed into negative action on 2-3-09, cutting off her FIP benefits, and reducing her FAP grant to \$289. The negative action was deleted pending the hearing outcome.

(32) This is claimant's second incidence of noncompliance.

(33) On 1-23-09, claimant requested a hearing, alleging that a negative action had been imposed upon her case incorrectly.

#### 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.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal

regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full-time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency-related activities to increase their employability and to find employment. PEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. PEM 230A, p. 1. This is commonly called “non-compliance”. PEM 233A defines non-compliance as failing or refusing to, without good cause:

...Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider... PEM 233A pg. 1.

However, noncompliance can be overcome if the client has “good cause”. 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. PEM 233A. A claim of good cause must be verified and documented. The penalty for noncompliance without good cause is FIP closure. While the first incident of noncompliance can be excused, subsequent incidents are subject to sanction. PEM 233A.

Furthermore, JET participants can not be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. PEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. PEM 233A.

The undersigned is pressed to find any fault in the Department’s handling of claimant’s case. To the contrary, both the testimony and the evidence of record indicate that the Department provided claimant with every opportunity to prevent the closure of her case, which the claimant repeatedly squandered.

Claimant initially told MRS that she did not wish to cooperate. The Department, unable to determine whether or not claimant was eligible for a deferral, allowed claimant time to get medical verifications. Claimant did not return these verifications, and the Department thus sent to JET. Claimant did not attend JET and did not provide a legitimate excuse for missing the initial JET appointment, yet was given another chance. Claimant did not attend again, and requested a referral back to MRS; the Department again accommodated the claimant, though they were under no obligation to do so. Claimant subsequently missed three appointments with MRS, two of them as a no call/no show. While claimant claims that the third appointment was missed due to her prior request that all appointments be scheduled in the morning, claimant was unable to provide a satisfactory answer as to why the previous two appointments were missed. Claimant was unable to provide a reason or documentation for missing all of the appointments.

Claimant cannot argue that she was unaware of the requirements; the Department had been working with claimant since August, and claimant failed to attend a single appointment scheduled. While this Administrative Law Judge is sympathetic to claimant's circumstances regarding chronic illness, fatigue, and pain associated with claims of fibromyalgia, claimant never returned to the Department requested medical verifications, nor did claimant allege at any time that she missed any of the several appointments scheduled for her because of her disability.

While it is true that a claimant's circumstances and situation must be taken into account when determining good cause, at some point a line must be drawn and the claimant in this case has repeatedly stepped over that line. The essence of good cause is a determination of whether a claimant would have cooperated with the Department's reasonable expectations, but for claimant's unique problems, be they from health, transportation, or unforeseen circumstances. The answer here is plainly no. Claimant has not provided evidence of intent to cooperate; indeed, the great weight of the evidence appears to lead us to the conclusion that the claimant had no intention of cooperation; she did not keep a single appointment between August and January, despite the Department's attempt to repeatedly give her the benefit of the doubt. Therefore, the undersigned finds that the Department was correct in their determination of no good cause, and in imposing sanctions upon the claimant's case.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did not have good cause with regard to her noncompliance with work-related activities. The Department's subsequent actions in sanctioning the claimant in accordance with penalties for a second incident of noncompliance were correct.

Accordingly, the Department's decision in the above-stated matter is, hereby,  
AFFIRMED.

/s/  
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Robert J. Chavez  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: March 31, 2009

Date Mailed: April 1, 2009

**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.

RJC/cv

cc:

