

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: 2009-22006
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2009
Kent 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 June 16, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month 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 Kent County, and a JET participant.
- (2) On 4-2-09, claimant was referred to triage by JET officials for failing to attend work-related activities.

- (3) On 4-2-09, a DHS-2444, Notice of Noncompliance was sent to the claimant, scheduling a triage for 4-16-09.
- (4) On 4-16-09, the triage was held; claimant attended the triage.
- (5) No good cause was found at the triage; the reasons behind the finding were that claimant did not verify her stated reasons for good cause.
- (6) Claimant was deemed noncompliant.
- (7) This was claimant's first incident of noncompliance.
- (8) Claimant was offered, and accepted, a DHS-754, First Noncompliance Letter, per BEM 233A.
- (9) Claimant was sent back to JET.
- (10) On 4-17-09, a case manager spoke with claimant to make sure she understood the JET requirements to get back into compliance.
- (11) On 4-21-09, claimant showed up one and a half hours late to class, alleging that she had car troubles.
- (12) Claimant also did not turn in required job search hours at that time.
- (13) Claimant was deemed to still be noncompliant, and her case was sanctioned and closed on 5-5-09.
- (14) On 4-27-09, claimant filed for hearing, alleging that she disagreed with the Department actions.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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. BEM 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. BEM 230A, p. 1. This is commonly called “noncompliance”. BEM 233A defines noncompliance as failing or refusing to, without good cause:

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

However, a failure to participate in work related-activities can be overcome if the client has “good cause”. Good cause is a valid reason for failing to attend employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the individual. BEM 233A. A claim of good cause must be verified and documented. BEM 233A states that:

Good cause includes the following...

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities....

The penalty for noncompliance is FIP closure. BEM 233A.

Furthermore, JET participants cannot be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. BEM 233A.

At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. BEM 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. BEM 233A.

With regard to the first alleged incident of noncompliance, it is undisputed that claimant did not have good cause. No verifications were provided, as required by BEM 233A, and claimant signed the DHS-754, in which she agreed that she was noncompliant. As this was claimant’s first incident of noncompliance, the DHS-754 procedure was appropriate and claimant was correctly sent back to JET to prove that she was willing to get back into compliance. Unfortunately, claimant has not met her burden of proof to show that she was compliant.

Claimant alleges that on the day she was dismissed from JET on a violation of her DHS-754, she had had car troubles that prevented her from arriving on time. The undersigned extended the hearing record to allow the claimant time to submit evidence of the car trouble. As of this writing, no such evidence has been provided. While the car troubles would undoubtedly be an example of an unplanned event or factor provided for in BEM 233A as an example of good cause, all allegations of good cause must be verified. Claimant has not verified this good cause. Therefore, while the Administrative Law Judge finds her testimony credible as to the car troubles, policy is very clear that good cause cannot be awarded. As noncompliance is defined as a failure to attend work-related activities, without good cause, the undersigned must hold that

claimant was noncompliant on the day in question, which is a violation of her DHS-754 agreement.

When a claimant is found in violation of the DHS-754, BEM 233A states that the correct action is to immediately apply the sanction that was removed by the DHS-754 process. The Department did precisely that, and as a result the Administrative Law Judge must find that the actions of the Department are correct in the current situation.

It should be noted, however, that even if the undersigned were to grant good cause based on the claimant's allegations, the Department also alleged that JET case notes stated that claimant was also noncompliant with regard to her participation hours that day. No credible explanation for this failure has been forthcoming from the claimant. Thus, even if good cause were to be granted for claimant's car troubles, claimant would still be noncompliant for the failure to complete her required participation hours. Thus, the action of the Department in sanctioning the claimant was the correct action to take.

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 for her failure to attend the JET program during the month of April, 2009.

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

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

Date Signed: August 3, 2009

Date Mailed: August 4, 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:

