

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: 2009-24246
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 14, 2009
Genesee 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 July 14, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction upon the claimant for noncompliance 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 Genesee County.
- (2) Claimant was given notice to attend JET on 10-27-09 for orientation.
- (3) On 3-3-09, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage date of 3-16-09.

- (4) Claimant did not attend the triage.
- (5) Claimant had not received notice of triage because of an address change; though the change had been reported to DHS, no notice was filed by the US Post Office.
- (6) Claimant had been active in an approved vocational education at the time of the alleged noncompliance.
- (7) No good cause determination was made.
- (8) JET had been going through a change of contractors at the time of the noncompliance.
- (9) Claimant had told a JET worker that she would not be able to make the set orientation date because of classroom activities; caseworker did not give this information to DHS.
- (10) On 5-18-09, claimant requested a hearing.

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).

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. Clients who have not been granted a deferral 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. 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. PEM 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. 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.

With regard to the claimant’s initial incident of noncompliance, the undersigned is having difficulty determining whether the claimant was ever noncompliant to begin with.

The transition in Genesee County to a new JET contractor in November, the time of the alleged noncompliance, produced many difficulties. As a result, no referrals for triage were sent out for almost 5 months, many of them erroneously. The undersigned has personally seen this

several times, many on the same date that the notice of noncompliance was sent out in the current case.

Claimant alleges that she was unable to make her orientation date due to school, and told the JET worker this. The JET worker allegedly told the claimant that they would reschedule. The rescheduling never happened. The Administrative Law Judge finds this credible, in light of prior knowledge of this transition, as well as the Department's own testimony that this was very likely to happen.

Therefore, the undersigned holds that the evidence and testimony of record show that the claimant was never noncompliant. Thus, the Department was in error when claimant was placed in noncompliance status and sanctioned.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was in compliance with the JET program during the month of November, 2008.

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

The Department is ORDERED to remove all negative actions pending against the claimant in the current matter, reschedule claimant for all required JET classes, and restore claimant's FIP benefits retroactive to the date of case closure.

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

Date Signed: July 21, 2009

Date Mailed: July 21, 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:

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