

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: 200925142
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 14, 2009
Lenawee 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 one year 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 Lenawee County.
- (2) Claimant and claimant's partner, [REDACTED], were participants in the JET program.
- (3) On April 27, 2009, JET notified claimant's caseworker that both claimant and her partner had failed to participate with the JET program.

- (4) On April 28, 2009, a DHS-2444, Notice of Noncompliance was sent to claimant and her partner, scheduling a triage meeting for May 6, 2009.
- (5) On May 6, 2009, the triage was held.
- (6) Claimant submitted medical evidence that purported to show good cause.
- (7) This medical evidence consisted of an emergency room record from February, 2009, showing that claimant's child had had a seizure.
- (8) Claimant argued that this medical evidence was proof of good cause.
- (9) The Department did not award good cause at the triage.
- (10) Because both claimant and her partner were found noncompliant, claimant was given two penalties.
- (11) These two penalties, when added to the case, gave claimant a total of 3 penalties on the case, and a 1 year sanction was imposed, in accordance with PEM 233A.
- (12) On May 26, 2009, claimant requested a hearing, alleging that she and her partner had been compliant, and that the medical evidence of record showed that claimant's children needed 24 hour care, which directed a finding of good cause.

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. 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, a failure to participate can be overcome if the client has “good cause”. Good cause is a valid reason for not participating with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. PEM 233A. A claim of good cause must be verified and documented. PEM 233A states that:

“Good cause includes the following...

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member’s illness or injury requires in-home care by the client....”

The penalty for noncompliance is FIP closure. However, for the first occurrence of non-compliance, on the FIP case, the client can be excused. 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.

At issue are two distinct allegations of noncompliance. Both claimant, and her partner, were both alleged to be noncompliant. An examination of the MIS case notes, Department Exhibits 6 and 11, shows that claimant and her partner did not turn in required job logs for almost a month before JET notified the Department of the potential noncompliance. Claimant did not testify that she or her partner turned in the job logs, or in any way attend JET during the time period in question. Thus, it is undisputed that claimant and her partner were not participating.

The question therefore, is whether claimant and her partner had good cause for the non-participation. Each party must be analyzed separately; it is possible that one partner had good cause for the non-participation, and the other did not, giving three possible outcomes to this case—both were noncompliant, one was noncompliant, or neither was noncompliant.

With regard to claimant's partner, [REDACTED], claimant argued that her children's condition required 24 hour care. Claimant submitted proof, labeled as Claimant's Exhibit 1, that her child had suffered a seizure in February, 2009.

The Administrative Law Judge holds that, even if claimant's argument is given full weight, and her children required that level of care, claimant's partner did not have good cause.

Nothing in the medical records submitted stated that the child in question required 24 hour care from both parents. While seizures are certainly a serious condition, no evidence was submitted or given stating that round the clock care from both parents was required; claimant only submitted confirmation that the child had been admitted to the emergency room in February, 2009. While claimant testified that this care was required, given that there is no evidence that claimant requested accommodations from the Department or JET prior to the triage, the undersigned does not find this testimony credible. All allegations of good cause must be documented; there is no documentation that both parents were required for this care, assuming the care was necessary. Therefore, the undersigned cannot grant good cause to claimant's partner.

With regard to the claimant's allegation of noncompliance, claimant argued that she was required to provide 24 hour care for her children, because of her children's medical needs; this need, as argued, directs a finding of good cause.

After giving long consideration to claimant's arguments, the undersigned must respectfully disagree.

Claimant testified at hearing that she did not participate because she needed to stay home to take care of her children's medical issues. If verified, such a claim would be enough to grant good cause. Unfortunately, nowhere in the submitted medical records is this claim verified. Such verification may exist, and given the seriousness of claimant's children's illness, the undersigned is sympathetic to the claimant's argument. However, our test must only consider whether the Department's actions were correct given the information they knew, or should have known, at the time they took the action.

Even considering that the Department had the medical records providing verification for her children's illness, these medical records do not contain verification requiring the claimant to monitor her children 24 hours a day—they only state that claimant's child entered the hospital on [REDACTED], because the child had a seizure. This was the only piece of medical evidence claimant submitted at the hearing. Claimant provided no notes of follow-up care, no notes from her doctor, and no instructions that lent any credibility to her testimony. The other pieces of medical evidence claimant submitted were documents proving illness during the month of June, 2009, well after the incident in question.

The undersigned does not believe that the one piece of evidence provided is in any way sufficient to grant good cause; there is no indication that the child could not be in child care, and required 24 hour parental supervision. Furthermore, Department Exhibit 10, the MIS case notes, shows that claimant took a small job, consisting of about 6 hours per week, on [REDACTED], after her child entered the hospital. This notation hurts claimant's credibility with regard to her testimony that she needed to watch her children constantly; if the children required the level of care as alleged, the undersigned does not believe claimant would be able to take a job, even as small a job as the one in question. Finally, the fact that there is no notation that the Department was ever notified, prior to the triage, that claimant was having such a medical emergency, also subtracts credibility; this is the first time anybody connected with the Department was aware of claimant's alleged situation. While the undersigned freely admits that good cause does not have to be provided until the time of the triage, the fact that claimant did not see a need to contact the Department about a possible prolonged absence does not lend weight to claimant's statements of necessity. This fact is in no way dispositive, but taken together with the lack of medical evidence, and claimant's possession of a small job, it does give cause to wonder.

This is not to say that the undersigned is unsympathetic to claimant's arguments; a sick child with a serious condition is a hardship on any parent. However, as stated, the test in question must be whether or not the Department made the correct action using the information it knew at the time of the action. The information as submitted is not enough to grant good cause. All claims of good cause must be verified, and the evidence of record clearly shows that these claims are, so far, unsubstantiated. Thus, the undersigned is unable to find good cause for the claimant herself.

The Department's action in sanctioning the claimant was therefore correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant and her partner did not have good cause for their failure to attend the JET program in April, 2009.

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



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

Date Signed: 12/23/09

Date Mailed: 01/06/10

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.

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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/dj

cc:

