

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: 200925303  
Issue No: 1038  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 16, 2009  
Ingham 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 16, 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 a FIP recipient in Ingham County.
- (2) Claimant and claimant's wife, [REDACTED], were participants in the JET program.

- (3) On February 27, 2009, JET notified claimant's caseworker that both claimant and his wife had failed to participate with the JET program.
- (4) On March 18, 2009, a DHS-2444, Notice of Noncompliance was sent to claimant and his partner, scheduling a triage meeting for March 25, 2009.
- (5) On March 25, 2009, the triage was held.
- (6) Claimant submitted medical evidence that purported to show good cause.
- (7) This medical evidence consisted of several medical documents that showed evidence of claimant's heart condition and other physical limitations.
- (8) Claimant also argued that his vehicle was inoperable.
- (9) Claimant's wife argued that she did not know she had to have hours completed for the President's Day weekend.
- (10) The Department did not award good cause at the triage.
- (11) Because both claimant and his wife were found noncompliant, claimant was given two penalties.
- (12) 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 BEM 233A.
- (13) On April 2, 2009, claimant requested a hearing, alleging that he and his wife had been compliant, and that the medical evidence of record, as well as claimant's transportation problems, 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 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. 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....

### **No Transportation**

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to 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 his wife, were both alleged to be noncompliant. An examination of the MIS case notes, Department Exhibit 3, shows that claimant and his wife did not complete the required hours during the week before JET notified the Department of the potential noncompliance. Claimant did not testify that he or his wife completed the hours during the time period in question. Thus, it is undisputed that claimant and his wife were not participating.

The question therefore, is whether claimant and his wife 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 wife, claimant argued she was unaware that she was responsible for hours on President's Day, and that their vehicle was inoperable.

The Administrative Law Judge holds that, even if claimant's argument is given full weight, claimant's wife did not have good cause.

Both MIS case notes and Department testimony indicate that claimant's wife had been told that the day in question was not a noted federal holiday in the JET program. The undersigned finds this credible. While claimant's wife may have believed this to be the case, the undersigned does not believe that this belief to be reasonable. JET would have notified claimant if they weren't required to be there on a certain day; JET did not do this. Logically, one would assume, unless JET had notified them to the contrary, that one would report on a day in question. JET did not state that this day was a federal holiday. Therefore, the undersigned cannot grant good cause to claimant's partner for this reason.

Furthermore, claimant's wife's allegation of lack of transportation fails to garner sympathy with the undersigned. MIS case notes show that claimant's wife had been offered transportation in the form of bus cards with which to pay bus fares to JET. At the triage, claimant's wife explained that she could not take the bus because she had never taken it before and did not know the routes. That may have very well been the case, but transportation good cause requires the Department to offer reasonable transportation. This transportation offer was reasonable for claimant's wife, and she declined to use it. Good cause is therefore inappropriate in the circumstances, and claimant's wife must be found noncompliant.

With regard to the claimant's allegation of noncompliance, claimant argued that his medical condition rendered him unable to reach the bus stop in question, and therefore, had no reasonable transportation.

The Department analyzed claimant's medical conditions under the illness policies, and concluded that claimant's doctor stated he could participate in work-related activities, albeit in limited situations. The Department declined to offer claimant good cause for this reason.

After giving long consideration to claimant's arguments, the undersigned holds that good cause should have been awarded to the claimant.

The Department was indeed correct in its argument that claimant did not meet the illness standards for good cause. Department Exhibits 10, 11, 12, and 13 all show a claimant with a serious heart condition, but not one that bars him from participating in work related activities. However, the Department erred in assuming that because claimant's condition excluded him from good cause using one particular standard, claimant's condition excluded him from all standards. This is not the case.

Claimant testified that while the Department offered him a bus card for bus fare, he was unable to use it. Claimant testified credibly that the bus stop he would have to use to reach JET was farther away than he could reasonably walk. The undersigned finds this testimony credible, and the Department did not dispute it.

While the Department did offer claimant transportation, this transportation was unusable to the claimant. Unusable transportation is no transportation at all, and claimant should have been analyzed under those standards. Claimant's medical records do not show that he could walk, twice a day, 5 days a week, to the bus stop in question—his heart condition would not allow it, and to do so, especially during the winter months in question, could place claimant in serious jeopardy. Therefore, the undersigned finds that transportation was not available to the claimant, and claimant should have been awarded good cause.

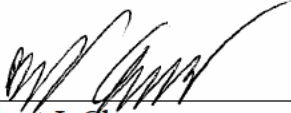
As claimant's wife was noncompliant, but claimant was not, the Department erred when assessing two penalties to the case and sanctioning the claimant's case for one year. As the Department showed claimant had only one prior penalty, and only one penalty should be assessed for the current case, the correct sanction in the case is 3 months, per BEM 233A.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant's wife did not have good cause for her non-participation in February, 2009. Claimant did have good cause for his non-participation.

Accordingly, the Department's decision in the above stated matter is, hereby,  
AFFIRMED IN PART and REVERSED IN PART.

The Department is ORDERED to assess claimant's case only one penalty for his wife's noncompliance. If no sanctions have yet been applied to the case, the Department shall process any sanctions as is consistent with the policies found in the Bridges Administrative and Eligibility Manuals. If sanctions have already been applied to the case, the Department is to remove any sanction and penalty the claimant himself incurred, restoring benefits retroactively if necessary.

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

Date Signed: 01/21/10

Date Mailed: 01/22/10

**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.

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:

