

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: 200928752

Issue No: 1038

Case No:

Load No:

Hearing Date:

August 4, 2009

Calhoun 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 August 4, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and one year 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 and her husband were FIP recipients in St. Clair County.
- (2) On May 22, 2009, claimant was referred to triage by the JET Program.
- (3) Claimant and her husband had failed to meet federal participation requirements in the JET program for several weeks prior to the triage referral.

- (4) On May 27, 2009, a DHS-2444, Notice of Noncompliance was sent to both claimant and her husband, scheduling a triage on June 9, 2009.
- (5) Claimant and her husband attended the triage.
- (6) At the triage, claimant stated that her children had been sick on two days in May, shortly prior to the triage, and she was unable to turn in job logs on those days.
- (7) Claimant also informed JET that she was unaware that she could have requested transportation to complete job logs for periods of non-participation in late April.
- (8) Claimant had been informed by JET that a van service was available and could take her out for job searching.
- (9) The Department determined that neither claimant nor her husband had good cause, and was thus noncompliant.
- (10) This added two penalties to claimant's case, giving claimant a total of three penalties.
- (11) Claimant was subsequently sanctioned for one year.
- (12) On June 22, 2009, claimant filed for hearing, alleging that she disagreed with the actions of the Department.

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 MACR 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, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for non-participation with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented. BEM 233A states that:

“Good cause includes the following...

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 noncompliance on the FIP case, the client can be excused. This is not applicable in the current case. BEM 233A.

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. 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. Good cause may be verified by information already on file with DHS or MWA. 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.

The Department has provided sufficient proof, in the form of MIS case notes and timekeeping records, to show that neither claimant nor claimant's husband were meeting the participation requirements of the JET program. Department Exhibit 2, 4, 8 and 10, MIS Case Notes, Timekeeping Records. Therefore, the claimant has the burden of proof to show that she had good cause for failing to meet those participation requirements.

Neither claimant, nor her husband, has done so.

The Department has shown that claimant was given credit for 1 hour for the week of April 26, 2009; 14 hours for the week of May 3, 2009; 1 hour for the week of May 10, 2009; and 0 hours for the week of May 17, 2009. For those same weeks, claimant's husband was given credit for 1, 6, 1 and 0 hours, respectively.

Claimant argued that her children's illness, verified by a doctor slip for the dates of [REDACTED] [REDACTED], and [REDACTED], should give her good cause. The undersigned is skeptical of this argument, but will take claimant's allegations at face value; claimant stated that she was unable or not allowed to turn in completed job logs for those weeks, because she missed those classes. By taking those

arguments at face value, the undersigned can award good cause for that week to claimant and her husband.

However, even by taking claimant at her word, and giving good cause for that week, the Department has successfully shown that there were three other weeks in question that claimant and her husband were not participating. Furthermore, even if the undersigned gives claimant's testimony full value (which the undersigned can do only under the loosest interpretation of the regulations—BEM 233A strictly requires actual verification for all claims of good cause), and assumes that logs that were not turned in during two of those three weeks were actually completed, claimant and her husband must still explain away the week of May 3, 2009. During that week, claimant and her husband turned in job logs—job logs that were woefully incomplete.

The job logs for that week, Department Exhibits 3 and 9, show that claimant and her husband logged in 12 and 4 hours of job searching respectively. Claimant and her husband were responsible for 35 hours per week, or roughly double the amount they actually completed. To this date, claimant and her husband have not provided a satisfactory reason for missing this requirement, much less provided verification for their troubles.

Claimant did argue that she needed transportation in order to conduct these job searches, and was unaware that the Department provided transportation to and from various job locations. After long and careful consideration, the undersigned, while finding the claimant credible, does not find this justification reasonable.

The Department testified claimant should have been aware that transportation was available. As proof, the Department submitted as Department Exhibit 15 an example of a sign that is posted in numerous locations, including the sign-in desk. This sign, in large, bolded 14 point font, and accentuated with clip-art representations of a van reads, in part: "ATTENTION

JET PARTICIPANTS—NEED TRANSPORTATION TO JOB SEARCH?” The sign then goes on to explain how a participant can get transportation, provided by the Department, for the purpose of job searching. While it is indeed true that the claimant may have still been unaware that this service was available, the Department provided evidence that claimant had been notified of this service, and that this service was available. The undersigned therefore concludes that claimant should have known about the service, and used it. Therefore, claimant’s argument for lack of transportation fails.

As claimant has not provided any reasonable evidence of good cause, and the Department has met its burden of proof in showing that claimant was non-participatory, the undersigned can only conclude that claimant and her husband were noncompliant with assigned JET activities.

As such, the Administrative Law Judge must conclude that the Department was correct to not assign good cause, and the Department action should stand.

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 May, 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: 02/19/10

Date Mailed: 02/23/10

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:

