

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: 2009-31881
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 2, 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 September 2, 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 a FIP recipient in Genesee County.
- (2) Claimant was attending the STRIVE program, a subdivision of the JET program.
- (3) STRIVE closed due to funding restrictions in April 2009.
- (4) Claimant was never given a reassignment to the JET program.

- (5) When claimant did not attend JET, claimant was placed into triage.
- (6) On July 18, 2009, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage date of July 27, 2009.
- (7) Claimant was not able to provide good cause at triage, and no good cause was awarded.
- (8) On July 30, 2009, claimant requested a hearing arguing that she had not been noncompliant.

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, 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. PEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance 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 non-participation, the undersigned is having difficulty determining whether the claimant was ever non-participatory to begin with.

The abrupt closing of the JET-related STRIVE program in April 2009 saw many JET participants fall through the cracks. As a result, claimant never received notification that she was supposed to report to a new JET location. A memo directed to the undersigned, Department Exhibit 5, confirmed this to be the case, and affirmed that no negative action would be taken against the claimant, as claimant was not at fault in the situation.

While the undersigned is certain that this is the case, given the circumstances, as well as the close of the hearing record, the undersigned must still issue a decision. However, given the

circumstances, as well as the Department's explanations of what happened in the case, such a decision is simple one to make. The undersigned commends the Department for their honesty and assistance in providing information in the case, and reverses, as the evidence clearly shows claimant was never notified of her JET requirements.

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 April, 2009.

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, if necessary and restore claimant's FIP benefits retroactive to the date of case closure, if this has not been done.



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.

2009-31881/RJC

RJC/dj

cc:

