

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: 2009-8113
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 19, 2009
Jackson 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 March 19, 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 an FIP recipient in Jackson County.
- (2) On 11-6-08, claimant was denied a medical JET deferral by the Medical Review Team (MRT).

(3) On 11-24-08, claimant was sent a DHS-4785, Jobs, Education and Training Appointment notice, scheduling a JET appointment for 12-01-2008.

(4) Claimant did not attend the appointment.

(5) On 12-08-08, claimant was sent a DHS-2444, Notice of Noncompliance, which set a date for triage of 12-18-08.

(6) Claimant attended the triage on 12-18-08. While checking in, she filed a request for hearing.

(7) At the triage, claimant was told to have her doctor fill out various medical needs forms and return them, for an unknown purpose.

(8) No good cause determination was ever made.

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, 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 cannot 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.

The current case presents a unique problem. Both the claimant and the Department appear to have approached the hearing with the intent of requesting a ruling regarding the

appropriateness of claimant's denial of a medical JET deferral by the MRT. Unfortunately, the undersigned has no jurisdiction regarding the denial of the deferral. PAM 600 states:

SOAHR may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.

A denial of a deferral is not a negative action; it is simply a departmental determination as to the appropriateness of claimant for certain program classifications. Claimant's benefits were not affected until her failure to attend the JET appointment. Therefore, while an Administrative Law Judge has the power to decide whether or not claimant's medical problems would constitute good cause for noncompliance in attending the JET program and other work-related activities, an Administrative Law Judge cannot rule as to whether the claimant should be classified in a certain manner.

However, the undersigned has no qualms about making a ruling with regard to whether or not the Department conducted its triage procedures correctly.

PEM 233A requires that a good cause determination be made with regard to claimant's noncompliance issues. The Department was unable to present any evidence, documentary or otherwise, to show that a good cause determination was made. While the Department did request medical needs from claimant's doctor at the triage, it is unknown whether the Department followed up on this to make a good cause determination. Absent any evidence from the Department with regards to a good cause determination, the undersigned must therefore conclude that no good cause determination was made, and that the Department was therefore, in error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was in error when it failed to make a good cause determination with regard to the claimant's medical problems and JET noncompliance.

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

The Department is ORDERED to reschedule a triage using proper good cause determination procedures, with regard to claimant's medical conditions and noncompliance as described in the Program Eligibility Manual, if appropriate given possible subsequent case actions.

/s/

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

Date Signed: March 24, 2009

Date Mailed: March 25, 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:

