

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: 2009-10584

Issue No: 1038; 3029

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 9, 2009

St. Joseph 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 April 9, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and 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 and FAP recipient in St. Joseph County.
- (2) On 10-28-08, claimant and claimant's son were found in noncompliance with work related activities for the purposes of the FIP and JET programs.

(3) Both claimant and claimant's son had repeatedly missed JET assignments and failed to turn in job logs.

(4) On 11-5-08, a triage was held; claimant was given a determination of no good cause because claimant's caseworker felt that neither claimant nor his son had any inclination to cooperate with the JET program.

(5) Claimant had one previous incident of noncompliance; both claimant and his son were found noncompliant, therefore requiring a sanction as if this were the claimant's third incident of noncompliance.

(6) On 11-6-08, claimant's case was put into negative action.

(7) On 1-2-09, claimant re-filed for FIP and FAP benefits.

(8) Claimant's assistance application was denied by reason of being under sanction.

(9) On 1-2-09, claimant requested a hearing on the matter of the good cause determination and his subsequent denied application.

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).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal

regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. 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. However, for the first occurrence of noncompliance, on the FIP case, the client can be excused, with certain conditions, as outlined on a DHS-754, First Noncompliance Letter. Claimant previously took advantage of this clause. PEM 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. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. PEM 233A.

The Department contends that the claimant had been given several opportunities for compliance, many of which were ignored by the claimant. In particular, they claim that both claimant and his son refused to engage in employment and JET activities; that claimant had been offered local mass transit options, but refused to take them; that claimant and his son repeatedly failed to turn in job logs; and that claimant refused to participate in job search activities.

For his part, claimant alleges that he was often unable to attend JET activities due to car troubles, and that a lack of employment and a tough economy made the job log requirements unreasonable.

The undersigned finds neither of these reasons credible reasons for noncompliance. With regard to the transportation issues, it is certainly understandable that claimant may find himself stranded and unable to participate in JET on certain days when his car is not working. It is also understandable, that, given the inherent unreliability of rural mass transit systems, that taking mass transit can be random, sporadic, and only used when there is advanced knowledge that a need for mass transit will be imminent. However, claimant’s issues of noncompliance aren’t solely stemming from these issues.

Far more troubling, and less understandable, is claimant and claimant’s son’s seeming inability to turn in job logs. According to Department Exhibit 9, the MIS case notes, over the course of a six week period, both claimant and claimant’s son were compliant with their job log requirements exactly zero times. Occasional logs would be turned in with a few hours of job

searching here and there, but at no point was the claimant ever fully compliant. Claimant's troubles were never from lack of transportation; claimant's troubles were a failure to even minimally participate in work related activities. For this reason, claimant's claims of transportation issues lack credibility.

Similarly, the undersigned cannot give credence to claimant's allegations of economic troubles as a valid reason for a failure to participate in work related activities. While the claims are certainly sympathetic, especially with regard to claimant's economic situation, sympathy does not give a reasonable excuse for simply giving up on the matter. If claimant was physically unable to work, reasonable cause would be examined; however, claims that there is no work, and that one should not bother trying to find work attack the very purpose of the JET program. Such claims are beyond the purview of this hearing.

The undersigned acknowledges that a reasonable misunderstanding may provide reason for good cause; such a misunderstanding, if reasonable, would indicate a willingness to cooperate and stay in compliance with work-related activities required by the JET program. However, there was no misunderstanding in this case. The available evidence all points to a conclusion that claimant was unwilling to attempt compliance with work related activities. A finding of no good cause was correct.

As claimant did not have good cause, any sanction imposed on claimant's case would be correct as long as the sanction was prescribed by Department guidelines. Factually speaking, the claimant's current sanction was correct. Following that, claimant would have still been under sanction at the time of his January 2009 application and the Department would have had no choice but to deny that application for assistance. Therefore, the Department's denial was also correct.

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 his failure to participate in work-related activities. Furthermore, claimant's sanction prevented any assistance application from being approved during the time period that the sanction was in effect.

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

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

Date Signed: April 15, 2009

Date Mailed: April 16, 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:

