

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: 2009-12916
Issue No: 1038; 3029
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 26, 2009
Newaygo 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 26, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month 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 was an FIP and FAP recipient in Newaygo County.
- (2) On 11-5-08, claimant's husband was found in noncompliance with work related activities for the purposes of the FIP and JET programs for failure to turn in or complete his job logs.

(3) As all subsequent facts regarding this case revolve around claimant's husband; he shall henceforth be referred to as the claimant.

(4) On 11-21-08, a triage was held; claimant was given a determination of no good cause.

(5) Claimant agreed with the determination, and also agreed to get back into compliance with the JET program per PEM 233A, and signed a DHS-754, First Noncompliance Letter, which indicated a willingness to complete 40 hours of job search activity within the next week.

(6) On 12-01-08, claimant turned in the job logs for the week; they showed, among other things, that claimant had only turned in one application and had one interview.

(7) Claimant's job logs showed that claimant had only completed 29.75 hours of job search activities; 16 hours of that was excused time for the holidays.

(8) Additionally, claimant claimed less than the maximum time allowed for activities such as internet job searches.

(9) On 12-2-08, claimant was found noncompliant and his case was placed into negative action on 12-6-08, cutting off his FIP grant and reducing his FAP grant to \$252 from \$490.

(10) On 1-29-09, claimant requested a hearing, stating that he disagreed with the department action.

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, as happened in the current case. PEM 233A.

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. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date; should a determination of no good cause be made, claimant’s may agree to the conditions set forth in the DHS-754 to avoid a sanction. PEM 233A.

Claimant contends that while he acknowledges that the hours in his job logs are not at the level he agreed to, this deficiency was due to a simple misunderstanding. Claimant claims that he was under the belief that any travel time spent to apply for a job would be countable in the hours. Claimant also claims that he believed that time spent dropping his kids off at day care or school would count, and that he should receive 2 hours of credit for a doctor appointment, though he did not provide proof of this appointment to his caseworkers.

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, the misunderstandings in this case were not reasonable; furthermore, even if they were reasonable, it is questionable whether such misunderstandings could account for ten hours of missed time.

The job logs, submitted as Department Exhibit 5, clearly state at the top of each log that travel time is only allowable as a job related activity if a claimant has seen a certain number of employers, depending on the travel distance, and has prior approval. Claimant did neither, and in fact, only saw one employer during the entire week. Furthermore, it would be wrong to dismiss such statements as mere boilerplate, and thus, easily missed. Claimant had filled out the job logs several times before and should have been aware of the requirements.

His misunderstanding is unreasonable for several additional reasons. First, given claimant's prior difficulties, he was on notice that his logs would be scrutinized and held up for review; this was not his first time through the process, and had been working with JET for some time. Knowledge that he had been given a second chance should have been an impetus to attempt to follow the contract very closely, not stretch its meaning to the breaking point.

Second, after agreeing to 40 hours of job searching, it was unreasonable to believe that the Department would be satisfied with only one application filled out in 40 hours of job searching.

Furthermore, even if the Department would have been satisfied with only one application and interview, there is still a significant problem. Even if we take as fact that the claimant should have received 2 hours of credit for a doctor appointment and accept that the claimant misunderstood the warnings on the job logs, it strains credulity to believe that claimant spent 8 hours on the road for one job interview. Claimant is claiming over 8 hours of time spent dropping kids off at day care and school and travel for this single job interview, which is more than 1/5th of the requirement he agreed to when he signed the DHS-754. This was not a reasonable assumption and it is questionable whether, if we accept the job log deficiencies as the

result of a reasonable misunderstanding, claimant would have had enough hours to satisfy his contract.

Therefore, the Administrative Law Judge finds that the claimant was in violation of his agreement contained in the DHS-754, and the Department was correct in its subsequent actions.

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.

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: March 31, 2009

Date Mailed: April 1, 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:

