

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: 2009-13598
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 9, 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 April 9, 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 Calhoun County.

(2) On 11-19-08, claimant was put into noncompliance status for failure to meet required job search hours with the JET program.

(3) Claimant was counting 8 hours of job searching credit for each application she turned in.

(4) JET regulations allowed 2 hours of job searching credit for each application.

(5) On 1-23-09, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage for 1-29-09, at 2:00 p.m.

(6) Claimant attended the triage and a determination of no good cause was made.

(7) This was claimant's second incident of noncompliance.

(8) Claimant's case was put into negative action and sanctioned, pending hearing.

(9) On 2-2-09, claimant requested a hearing, stating that she 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).

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 non-compliance, on the FIP case, the client can be excused, with certain conditions, as outlined on a DHS-754, First Noncompliance Letter; as this was the claimant’s second incident of noncompliance, this procedure was inapplicable to the claimant’s case. 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; 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 she acknowledges that the hours in her job logs are not in compliance with the allowed hours (which are stated clearly at the bottom of every page), the

allowed hours for an activity such as completing and turning in an application are unfair with regard to the actual time such an activity takes.

The undersigned acknowledges that events such as 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 current case provides no such misunderstanding; only a general discontent with JET policies. These policies may or may not be unfair; while the undersigned certainly believes that the current policies are generous with regard to time allowed, it can be acknowledged that others may not feel the same way. However, such disagreements are best taken up with a caseworker or a legislator, and are irrelevant to the case at hand.

The only relevant facts are these: the claimant repeatedly claimed 8 hours of job search time for a single turned in application. The job logs state clearly at the bottom of each page that only 2 hours of search time are allowed. Claimant was unable to point to a reason, besides discontent with the policies, as to why good cause should be granted.

This is not sufficient reason for good cause; in fact, it seems to be the very definition of noncompliance. Therefore, the Department was not in error when it did not grant good cause.

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 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: 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:

