

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: 2009-19121
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 18, 2009
Berrien 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 June 18, 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 recipient in Berrien County.
- (2) On 3-13-08, claimant was referred to triage for a failure to meet required job search hours with the JET program.

(3) Claimant was allegedly not turning in required job logs.

(4) Claimant was also allegedly failing to meet with a career developer, a required part of her work-related activities.

(5) On 3-23-09, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage for 4-1-09, at 2:45pm.

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

(7) Claimant was offered a DHS-754 at the triage; claimant refused to sign the form and instead opted for a hearing.

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

(9) On 2-2-09, claimant requested a hearing, stating that she disagreed with the department action, and 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. 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 “noncompliance”. PEM 233A defines noncompliance 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, a failure to attend work related activities can be overcome if the client has “good cause”. Good cause is a valid reason for failing to attend employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. PEM 233A. A claim of good cause must be verified and documented. The penalty for noncompliance 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 did not accept the DHS-754. However, if claimant receives a negative decision at hearing, the DHS-754 must be re-offered. 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 alleges that she was compliant with work related activities, and turned in all required job logs. As evidence, claimant has submitted job logs for the dates in question, marked

as Claimant's Exhibit 1. While the Administrative Law Judge notices that at least one week of job searching is missing from claimant's exhibit, the undersigned feels that claimant has generally been compliant with the job searching activity of her case, and will not penalize her for what looks like a missing week, especially given claimant's testimony that job logs were turned in for the missing week in question. The Department has been known to lose paperwork in the past, and the undersigned sees no reason to not give claimant the benefit of the doubt for one missing job log. Had this been the only issue, the undersigned would have no problem in deciding for the claimant; unfortunately this was not the extent of her responsibilities.

Claimant also had a responsibility to see her career developer when turning in her job logs; in fact, Department Exhibit 4, a statement of claimant's job search and JET requirements, specifically states that turning in job logs are not enough, and that claimant has an affirmative responsibility to meet with this developer. By claimant's own testimony, she had not met with the developer since December. While claimant's excuses had been many and varied, the fact still remains that claimant had not met with her developer in 3 months, and the Department had given her every opportunity to comply. Claimant did not.

Claimant's last chance to meet with her developer came during the weeks in question that the Department has labeled claimant noncompliant. Claimant was told that she had a week to meet with the developer; claimant did not. With regard to these weeks, the claimant alleged that her daughter had been ill, and offered to submit medical proof. While claimant's evidence does show some serious illness with regard to her daughter, this proof does not cover the dates in question, and still does not excuse the fact that claimant had not met this requirement in three months.

The Administrative Law Judge understands that claimant had been meeting all other requirements of her work-related activities; however, claimant was aware that there were other requirements and the great weight of the evidence shows that claimant has failed to meet these other requirements. Thus, the Department was correct in its determination that claimant did not have good cause for the weeks in question, and was thus, noncompliant.

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.

The Department is ORDERED to offer claimant a DHS-754 in order to give claimant a chance to get into compliance.

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

Date Signed: July 16, 2009

Date Mailed: July 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.

2009-19121/RJC

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:

