

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: 2009-20017
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2009
Kalamazoo 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 16, 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 Kalamazoo County.
- (2) On 3-13-09, claimant was referred to triage for a failure to meet required participation hours with the JET program.

(3) Claimant was employed; however, for several weeks in January, February and March, claimant was working far less than 20 hours per week.

(4) Claimant had been previously reminded that if she failed to meet her required participation hours in employment, she was required to make up those hours in JET activities.

(5) Claimant was not making up her lost time through any other approved activity.

(6) On 3-6-09, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled claimant for triage.

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

(8) This is claimant's second alleged incident of noncompliance.

(9) At the triage claimant argued that she was unaware she needed to do anything but be employed; however, the Department was provided with verification that claimant had not been meeting her hours through this employment.

(10) Claimant alleged she was ill during this time, and offered to submit medical documents; the record was extended to give claimant time to submit these documents.

(11) No medical verifications were ever submitted.

(12) On 3-24-09, claimant's case was sanctioned and closed.

(13) On 4-6-09, 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; unfortunately, this was claimant’s second alleged incident of noncompliance, and thus, she was not eligible for a DHS-754. 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.

The Administrative Law Judge has reviewed the evidence, and it appears that the Department has met its burden of proof by showing that the claimant did not meet participation requirements during the weeks in question. Claimant’s pay stubs, submitted as Department Exhibit 7, show that claimant’s employment hours were far below the 20 hours of participation per week required by policy. Claimant was unable to offer or document good cause at the triage, and the Department therefore was unable to award good cause, which rendered claimant noncompliant.

At the hearing, claimant alleged she had a medical reason for her failure to participate, and requested more time to submit documentation. The Administrative Law Judge granted the extension; however, claimant did not submit any documentation.

Therefore, the undersigned must rule that claimant has failed to meet her burden of proof to show that she had good cause for failing to participate as required. PEM 233A defines noncompliance as a failure to participate in work-related activities without good cause. Claimant has not documented good cause. Therefore, claimant was noncompliant.

The Department closed claimant’s case and imposed a three-month sanction. This is the correct action for a second incident of noncompliance, as is the current case. Therefore, the Administrative Law Judge holds that the Department’s action was 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 her failure to participate in work-related activities, and is therefore, noncompliant.

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: July 28, 2009

Date Mailed: July 29, 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:

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