

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: 2009-21080
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 25, 2009
Genesee 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 25, 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 Genesee County.
- (2) On 3-20-09, claimant was referred to triage for a failure to meet required job search hours with the JET program, as well as a failure to attend during the previous weeks.
- (3) Claimant was allegedly not meeting her required hours of work participation.

(4) Claimant was given credit for 4 hours of participation for the week of 3-2-09, and 3 hours participation for the week of 3-9-09.

(5) On 3-20-09, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage for 3-27-09, at 10:00am.

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

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

(8) At the triage claimant offered proof that her child had been sick during the second week of March, and good cause was awarded for that period of time.

(9) Claimant also alleged at the triage that her house had been broken into during the first week of March.

(10) As proof, claimant gave the caseworker the business card of the police officer who investigated the case, which contained a phone number for the officer as well as the complaint number.

(11) This business card did not contain a date of the alleged break-in.

(12) The Department told claimant that this card was insufficient and for her to go about securing a real police report.

(13) Claimant was unable to secure a police report; however, in May, claimant gave the Department a letter from her landlord which verified the break-in.

(14) On 4-7-09, claimant's case was sanctioned and closed.

(15) On 4-23-09, claimant requested a hearing, stating that she disagreed with the department action, and that she had good cause for her failure to participate.

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.

It is uncontested that claimant had good cause for her failure to participate during the second week in question. Claimant provided evidence of her child’s illness, and the Department deemed it acceptable.

The issue, therefore, is whether claimant provided evidence of good cause with regard to the first week in question.

It must be stated that, in the undersigned’s opinion, there are serious questions as to whether the claimant’s allegation of good cause would cover the entire week in question. While the undersigned has no reservations that the break-in happened exactly as the claimant testified, there are serious doubts as to whether this good cause excuse should cover the remaining 16 hours of participation. There does not seem to be a reason that a break-in that happened on a Monday night should excuse claimant from participation on the following Friday, absent some other, larger issue.

That being said, the Department testified that, had the claimant shown sufficient evidence that the break-in occurred on the night she said it did, that would have been sufficient to give good cause for the entire week. The Administrative Law Judge, though in disagreement with the Department, can only decide the issue at hand, and the Department has already conceded that event in question would constitute good cause, if only it were verified. Therefore, the Administrative Law Judge has no power to decide whether the break-in would constitute a reason for good cause for the entire week. The only matter at issue is whether the proof claimant

provided the Department was sufficient to award good cause, given that the Department believes that good cause would be warranted in the situation the claimant alleges.

In support of her story, claimant gave the Department a business card given to her by the investigating officer. This business card contained the officer's name, his phone number, and the complaint number of the incident in question. The Department argued that this card needed the date of the break-in to constitute proof of good cause.

After much deliberation, the undersigned must disagree. It is true that a date would be helpful. It is true that the caseworker, upon being given the card at the triage, could not immediately tell whether the date of the break in was during the period of nonparticipation. However, during his deliberation, the undersigned, upon examining the card and the procedures used for securing a police report from the City of Flint, realized that it would be a simple matter to call and ask the Department to confirm the date of the complaint number on the card.

The Administrative Law Judge did not do this; it is not the job of the presiding hearing officer to investigate the case outside the context of the hearing. However, it would have been a simple matter for the caseworker to simply call the City of Flint Police Department and confirm the dates.

Additionally, logically speaking, the undersigned could come up with no reason that the claimant would have lied about the break-in, and then supplied the caseworker with a name and number that could easily put lie to her statement. Simply put, if the claimant was lying with regard to the break-in, the caseworker could have found out easily, by calling the police department. It would make no sense for the claimant to put the means of finding her out so easily within the Department's reach. Her willingness to supply a phone number and case number for verification backs up the claimant's story to a large degree. While her verification is not perfect,

it certainly adds great weight to her statements, especially in light of later evidence that showed without a doubt that the break-in happened during the night in question.

Therefore, for the reasons stated above, the Administrative Law Judge holds that, in the current case, the information supplied to the caseworker in support of her story was enough to award good cause. As the Department stated that claimant's allegation was enough to award good cause, and that claimant was only lacking in providing adequate verification of the same, the undersigned holds that claimant had good cause during the weeks in question for her failure to participate with the JET program. Therefore, claimant was not noncompliant, and the decision to put her into noncompliance was error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did had good cause for her failure to participate in work-related activities, and is therefore compliant.

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

The Department is ORDERED to restore claimant's benefits retroactive to the date of negative action, and remove all sanctions and penalties from claimant's case resulting from the above stated matter. The Department is further ORDERED to reschedule claimant for all JET classes.

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

Date Signed: August 4, 2009

Date Mailed: August 5, 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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