

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: 2009-23579
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 8, 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 July 8, 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 Iosco County.
- (2) On 4-16-09, claimant was referred to triage by the JET Program.

(3) Claimant had failed to meet federal participation requirements in the JET program during the three weeks prior to the triage referral.

(4) On 4-17-09, a DHS-2444, Notice of Noncompliance was sent to claimant, scheduling a triage on 4-28-09.

(5) Claimant attended the triage.

(6) At the triage, claimant stated that she had been sick and that her mother's car had been repossessed and claimant had no transportation to fulfill her participation requirement.

(7) Claimant did not alert JET to any of these facts

(8) On 2-2-09, claimant signed a form indicating she was aware that JET in Calhoun County could provide transportation for the claimant if she needed it.

(9) Claimant supplied no verifications at the triage.

(10) The Department determined that claimant did not have good cause, and was thus noncompliant.

(11) This was claimant's second penalty.

(12) Claimant did not appeal by the negative action date and a 3 month penalty was applied on 5-11-09.

(13) On 5-13-09, claimant filed for hearing, alleging that she disagreed with the actions of the Department.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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. BEM 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. BEM 230A, p. 1. This is commonly called “noncompliance”. BEM 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... BEM 233A pg. 1.

However, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for non-participation with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented. BEM 233A states that:

Good cause includes the following...

No Transportation

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. This is not applicable in the current case. BEM 233A.

Furthermore, 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. BEM 233A. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. BEM 233A.

If the client establishes good cause within the negative action period, penalties are not imposed. The client is sent back to JET, if applicable, after resolving transportation, CDC, or other factors which may have contributed to the good cause. BEM 233A.

The Department has provided sufficient proof, in the form of job logs, to show that claimant was not meeting the participation requirements of the JET program. Department Exhibit 7, Hours Records. Therefore, the claimant has the burden of proof to show that she had good cause for failing to meet those participation requirements.

Claimant has not done so. Claimant alleged that she was sick for the first week of non-participation; however, claimant has not provided any documentation supporting this fact. A claim of good cause must be verified. BEM 233A. Claimant has not done so. Furthermore, even if the undersigned accepts that claimant was sick when she says she was, without verification, claimant must still explain her absences for two more weeks.

Claimant alleges that her mother’s car, which she used for transportation, was repossessed. However, claimant admits that she did not contact JET in order to arrange transportation. BEM 233A only allows a claim of good cause if the claimant contacted the Department or JET to request transportation, but was told that none was available. Had the claimant missed a day, or even, perhaps two, the undersigned would be more sympathetic to her argument, and would deem good cause applied under the unplanned event clause.

However, the claimant missed two full weeks of class due to the transportation issue. At some point, claimant's issues change from an unforeseen event to a need for transportation. At that juncture, the onus was on the claimant to call the Department to arrange transportation. Claimant did not do so. Therefore, claimant lost any claim to good cause she might have had.

Furthermore, claimant was aware that transportation was available. Department Exhibit 6, Claimant's Rights and Responsibilities, show that claimant specifically acknowledged that transportation was available to her with a simple phone call. Claimant instead chose to stay home for several weeks, without notifying JET that she had a problem. Therefore, claimant cannot argue that she had no transportation; transportation was available—she chose not to utilize it.

Regardless, this does not escape the fact that claimant did not verify any of her statements during the triage. BEM 233A requires all claims of good cause to be verified. Claimant did not. Even if she had provided verification, the undersigned does not believe the outcome of this case would be any different—claimant is unable to claim good cause under the lack of transportation clause. Thus, the Administrative Law Judge must conclude that the Department was correct to not assign 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 attend the JET program during the months of March and April, 2009.

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: September 1, 2009

Date Mailed: September 2, 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

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