

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: 2009-24985

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 16, 2009

Saginaw 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 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 Saginaw County and active with the JET program.
- (2) On 5-1-09, claimant was referred to triage by JET.

- (3) On 5-14-09, a DHS-2444, Notice of Noncompliance was sent to claimant, scheduling a triage for 5-29-09.
- (4) Claimant attended the triage on 5-29-09, and no good cause was granted.
- (5) Claimant alleged at the triage that she had medical-related good cause.
- (6) Claimant never submitted any medical documentation.
- (7) Claimant did submit a DHS-54, Medical Needs form, but claimant admitted that the problems indicated in the form were not the reason for non-participation.
- (8) This form was also dated almost two weeks after the non-participation had occurred.
- (9) The Department subsequently proposed a three month sanction for the claimant.
- (10) This is the claimant's first incident of noncompliance; however, the alleged noncompliance took place during a DHS-754 compliance test from a triage that occurred in April.
- (11) On 5-29-09, claimant requested a hearing.

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, 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. PEM 233A.

A claim of good cause **must be verified and documented**. PEM 233A states that:

Good cause includes the following...

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member’s illness or injury requires in-home care by the client....

The penalty for noncompliance is FIP closure and a case sanction, the length of which is determined by the number of case penalties claimant has accrued. PEM 233A. Claimants under case sanction are ineligible for FIP benefits.

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. PEM 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. PEM 233A.

PEM 233A specifically states that a claim of good cause must be verified and documented. Claimant did neither.

Claimant testified that she had been ill during the dates in question; however claimant never attempted to secure her medical records for the date in question.

Because claimant did not verify her good cause by the negative action date, claimant could not legally be allowed to have good cause. This is not a judgment on claimant’s credibility; the regulations clearly state that any claim of good cause must be verified and no verifications were ever presented. The test that must be used is whether the Department’s decision at the time of the action, using the information they knew, or should have known, was correct. In the current case, the Department had no knowledge regarding claimant’s good cause. Claimant’s good cause still remains undocumented as of the time of the hearing. Therefore, as no good cause has been presented, the Department’s decision must be 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 attend the JET

program during the months of April and May, 2009. The Department was correct when it closed claimant's FIP case and placed it under sanction.

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 2, 2009

Date Mailed: September 3, 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:

