

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: 200927306
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 6, 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 August 6, 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 a FIP recipient in Berrien County.
- (2) Claimant was a mandatory JET participant.
- (3) On March 18, 2009, claimant was deemed non-participatory with JET.
- (4) Claimant was subsequently assigned to triage.

- (5) On April 15, 2009, claimant signed a DHS-754, agreeing to get back into compliance with the JET program.
- (6) Claimant was reassigned to JET.
- (7) Claimant did not get back into compliance.
- (8) On [REDACTED], claimant's doctor signed a form indicating that claimant was unable to participate in work activities due to medical problems.
- (9) A medical needs form that was completed on June 9, 2009 revealed that claimant was unable to attend any work related activities for a period of one year.
- (10) Claimant's case was subsequently closed on April 24, 2009 for failing to adhere to the provisions of the DHS-754.
- (11) On May 26, 2009, claimant requested a hearing, arguing that she should have had good cause for the non-participation in question.

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 “non-compliance”. BEM 233A defines non-compliance 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 failing to participate 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...

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. However, for the first occurrence of noncompliance on the FIP case, the client can be excused via the DHS-754 process. BEM 233A. In the current case, claimant had already signed and agreed to participate using this process, when she failed to attend JET. The issue therefore, is not whether claimant was non-participatory without good cause before the signing of the DHS-754—claimant agreed that she was noncompliant when she signed the DHS-754—but rather, whether claimant was non-

participatory without good cause when she failed to attend JET during this compliance test procedure.

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.

While a triage is necessary during the first case of non-participation and referral, the policy is silent as to the necessity of a triage for a failed compliance test. However, there is nothing in the policy that prohibits the Administrative Law Judge reviewing the case from determining if good cause applies at the Administrative Hearing level.

After a full review of the allowed evidence, the undersigned is of the opinion that claimant's benefits were terminated inappropriately.

A letter sent to Michigan Rehabilitative Services on [REDACTED], shows that on claimant's doctor stated that she would be unable to participate in training or employment for a minimum of 20 hours per week. Furthermore, a Medical Needs form, signed by claimant's doctor on [REDACTED], shows that claimant was removed from all work related activities by her doctor for a period of one year.

Claimant's termination from the FIP program arose because claimant failed to attend JET after signing a DHS-754, which rescheduled her for the program beginning April 20, 2009. Claimant's medical condition, as attested to on this Medical Needs Form, was directly responsible for claimant's failure to participate as agreed. BEM 233A specifically states that verification of an acceptable reason for a failure to participate constitutes good cause. This documentation shows that claimant had good cause, and was unable to participate as was required. Therefore, the Department was in error when it closed claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant had good cause for his failure to attend the JET program during the month of April, 2009.

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

The Department is ORDERED to open claimant's case retroactively to the date of negative action, and supplement any missed benefits as a result of case closure.



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

Date Signed: 01/21/10

Date Mailed: 01/22/10

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/dj

cc:

