

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: 2009-27549
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 26, 2009
St. Clair 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 26, 2009.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and one year 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 St. Clair County and a JET participant.
- (2) Claimant did not meet her hourly participation requirements during the first week of May, 2009 for a total of 31 lost hours.
- (3) On May 15, 2009, claimant was referred to triage by JET officials for failing to attend work-related activities.

- (4) On May 19, 2009, a DHS-2444, Notice of Noncompliance was sent to the claimant scheduling a triage for May 28, 2009.
- (5) On May 28, 2009, the triage was held; claimant attended the triage.
- (6) Claimant argued at triage that she had been attending appointments with her son at a juvenile detention center, and also had court and legal troubles during the time of the non-participation.
- (7) The Department declined to award good cause.
- (8) Claimant was deemed noncompliant.
- (9) This was claimant's third incident of noncompliance.
- (10) Claimant's case was pended to close with a sanction period of one year.
- (11) On May 29, 2009, claimant requested a hearing.
- (12) On August 26, 2009, a hearing was held.
- (13) At this hearing, claimant brought along roughly 25 pages of evidence that purported to show that she had good cause for the dates in question due to court appearances, therapy sessions, and other legal troubles.
- (14) This packet was to be sent by inter-departmental mail, and the Department representative was given the documents to forward to the Administrative Law Judge.
- (15) Upon final review of this case, it was determined that the claimant's evidence packet had never arrived.
- (16) On January 21, 2010, the Administrative Law Judge contacted the Department to inquire as to the status or location of this packet and to find out if it had ever been mailed.

- (17) As of this writing, the Department has not responded to the Administrative Law Judge's request for information.

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, a failure to participate in 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

individual. BEM 233A. A claim of good cause must be verified and documented. BEM 233A states that:

“Good cause includes the following...

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities....”

The penalty for noncompliance is FIP closure. 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. 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 met their burden of proof in showing that the claimant was non-participatory. Department Exhibit 7, the MIS case notes, illustrate that during the time in question, claimant was frequently absent, and did not turn in job logs to cover her participation requirements.

Our case must then turn to the question of good cause. Good cause is a valid reason for non-participation that is based upon factors beyond the control of the individual. At the close of the hearing, claimant stated that she had roughly 25 pages of evidence that purported to show that during the times in question, claimant was either participating in mandatory therapy and

meeting sessions with her son, or dealing with court and other legal troubles. These documents were admitted into the record without objection from the Department, and the Department acknowledged that they had been shown at the triage. The Administrative Law Judge asked the Department to forward these documents to his office through inter-departmental mail.

Upon review of this case, the Administrative Law Judge realized that these documents had never arrived. Unfortunately, the Administrative Law Judge did not receive an answer of any kind when he contacted the Department to inquire as to their status. As the claimant had these documents in her possession at the hearing, and subsequently gave these documents to the Department, and as the Department, having been given almost two full weeks to respond to the undersigned's inquiries, the Administrative Law Judge can only conclude that these documents were somehow lost.

As they were in the hands of the Department, these lost documents will be assumed to have contained information that put the claimant in the best possible light.

Claimant argued at hearing that these lost documents proved that she had good cause, and accounted for her activities on the dates in question. The undersigned will hold that the documents in question, in the best possible light, verified claimant's allegations.

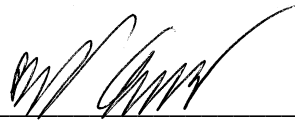
Good cause is to be awarded for an unplanned event or factor that was beyond the control of the parties involved. A court case or mandatory family therapy sessions would fall into this category. Claimant's evidence purported to hold evidence of these events, and the undersigned will assume they did. Therefore, the undersigned holds that claimant did indeed have good cause for missing the days in question.

DECISION AND ORDER

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

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

The Department is ORDERED to remove any penalties and sanctions resulting from the actions at hand in the current case, supplement claimant for any missed FIP benefits, and reschedule claimant for any required JET classes.



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

Date Signed: 02/23/10

Date Mailed: 03/05/10

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:

