

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: 200931079
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 26, 2009
Monroe 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 Monroe County.
- (2) Claimant was a participant in the JET program.
- (3) On June 22, 2009, claimant participated in a triage with regard to the JET program.

- (4) Claimant was not given good cause at this triage and was subsequently found noncompliant.
- (5) Claimant signed a DHS-754 at this triage and agreed to get back into compliance.
- (6) Claimant returned to JET on June 26, 2009, with the understanding that she was to remain in compliance.
- (7) Claimant did not complete required activities on June 29, 2009, completing only one hour of her requirements
- (8) Claimant completed no activities on June 30, 2009.
- (9) Claimant's case was placed into closure on July 25, 2009.
- (10) On July 22, 2009, claimant requested a hearing, stating that she disagreed with the actions of the Department of Human Services.

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, a failure to participate can be overcome if the client has “good cause”. Good cause is a valid reason for not participating 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 non-compliance, on the FIP case, the client can be excused. 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. 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.

BEM 233A does not require a triage to be held in the case of non-participation during the DHS-754 process. However, BEM 233A does not prevent the Administrative Law Judge from examining the circumstances during the non-participation and determining whether claimant had good cause for the time in question.

The Department argues that claimant was noncompliant on June 29, 2009, and June 30, 2009, when she failed to complete her assigned work-related activities. Claimant was in the midst of the DHS-754 process, after agreeing that she had been noncompliant during a triage held on June 22, 2009.

Department Exhibit 9, MIS Case Note, state that claimant completed about 1 hour of her required activities on June 29, 2009. Claimant told the Department on June 30, 2009, that she did no activities at all.

Claimant provided the Department with a doctor's note that allegedly excused her from participation on June 29, 2009; however, the Department found out several days later that the doctor had not been in his office and had not seen the claimant that day. Furthermore, claimant testified that the appointment in question had been in the afternoon; claimant missed all morning and provided no excuse for that time period. Claimant provided no excuse for missing job search on June 30, 2009.

The Administrative Law Judge, after reviewing the facts of the case, is unable to award good cause to the claimant. Claimant, having been told of her responsibilities through the DHS-754, cannot claim ignorance. Claimant admitted that, even if the doctor had been in the office,

the appointment was in the afternoon. Given that claimant was being tested to determine her willingness to comply, it was extremely unwise of the claimant to test the Department's latitude by skipping the morning classes. Furthermore, claimant provided no excuse for missing her June 30 classes.


The Administrative Law judge is willing to give leeway when a party shows a willingness to comply with policies; however, in the present case, claimant has at no time shown this willingness. The undersigned cannot find good cause when the claimant has not provided any excuse for her failure to complete activities, especially when claimant was aware, through the DHS-754, that she was being monitored extremely closely.

Claimant did not have good cause for her absences. Therefore, the Department's action in sanctioning the claimant was 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 their failure to attend the JET program in June, 2009.

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



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:

