

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: 2009-9662

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 18, 2009

Jackson 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 February 18, 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 Jackson County.
- (2) On 2-01-08, claimant was found in non-compliance with work related activities for the purposes of the FIP and JET programs.

(3) On 3-24-08, a triage was held, at which claimant was determined not to have good cause for the non-compliance.

(4) Claimant agreed to get back into compliance with the JET program per PEM 233A, and the sanction was dropped when claimant attended JET on 3-31-08.

(5) On 10-28-08, claimant left a message with the JET program that she was sick and unable to attend class.

(6) On 10-29-08, claimant left a message with the JET program that she had been in the emergency room and would not be attending a JET meeting.

(7) On 10-30-08, claimant notified the JET program that she had documentation from a doctor removing her from work-related activities.

(8) On 11-07-08, the JET program received documentation from claimant's doctor that claimant was cleared to return to JET.

(9) Claimant did not attend the JET program from 11-10-08 until 11-26-08.

(10) On [REDACTED], claimant was again admitted into the emergency room with complications in regard to an ovarian cyst and pregnancy.

(11) On 12-09-08, a DHS-2444, Notice of Non-Compliance was sent to the claimant, scheduling a triage for 12-23-08. Claimant was informed by the notice that she had until 12-27-08 to demonstrate good cause for non-compliance.

(12) While claimant did turn in several of her medical records at this triage meeting, her case manager ultimately determined that there was not enough documentation to arrive at a finding of good cause. Claimant was subsequently sanctioned for 3 months.

(13) On 12-23-08, claimant requested a hearing, stating that she had good cause for non-compliance, but didn't have proof of this the day of the triage.

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 “non-compliance”. PEM 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...” PEM 233A pg. 1.

However, noncompliance can be overcome if the client has “good cause”. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant 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 without good cause is FIP closure. However, for the first occurrence of non-compliance, on the FIP case, the client can be excused. PEM 233A.

Unfortunately for the claimant, the Department has shown conclusively in Department Exhibit 3 that this is claimant’s second non-compliance problem; she has already exhausted her second chance and the second chance provisions do not apply in the current case.

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. 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.

In the current case, claimant has presented medical records in Claimant’s Exhibits 1-5 that purport to show good cause for the missed dates of the JET program. This Administrative Law Judge must respectfully disagree.

While claimant’s exhibits do indeed show emergency room visits between [REDACTED] and [REDACTED], with a notification that the plaintiff is not to return to work until she has had a follow up with her general practitioner, these records only provide good cause to the claimant for those dates. By claimant’s own testimony, she saw her general practitioner the next week, sometime

before [REDACTED]. DHS received notification that claimant had been approved to return to work on 11-07-08. Claimant next went to the emergency room on [REDACTED]. There are no medical records in between this time. Thus, while claimant certainly started out with good cause for non-compliance, there is a good two and a half week period where claimant has not shown any cause whatsoever with regard to her missed classes. Claimant did testify at hearing that she had “basically been at home trying to heal myself” during this time period, but did not present any documentary evidence that this was upon a doctor’s instruction; as claimant has had several months to secure documentation, the undersigned can only conclude that such documentation does not exist. Therefore, claimant has not proven good cause for non-compliance, and the Department was correct in their initial finding post-triage.

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 month of November, 2008.

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: March 2, 2009 _____

Date Mailed: March 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:

