

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: 201012443
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 7, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 telephone hearing was held in Detroit, Michigan on April 7, 2010. The Claimant appeared and testified on her own behalf. Cynthia Hill, FIS appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction upon the claimant for noncompliance 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 Wayne County.
- (2) As a condition of Eligibility in the FIP program, claimant is a mandatory participant in employment related activities.

- (3) Claimant was assigned to the Jobs, Education and Training (JET, also known as Work 1st) program as part of employment related activities.
- (4) Claimant was required to complete 30 hours a week job search activities as part of her obligations with the JET program.
- (5) The Claimant did not attend the JET program and meet her core required 120 hours of job search in July 2009.
- (6) The Department issued a Notice of Non Compliance on September 2, 2009 advising the claimant that she did not comply with the requirements of the JET program. Exhibits A and B
- (7) The September 1, 2009 Notice of Non Compliance was the first notice given to the claimant for failing to comply with the requirements of the JET program.
- (8) Pursuant to the notice, a triage was held on September 10, 2009 and was not attended by the Claimant. Exhibit E
- (9) At the triage, the Department found that the Claimant did not establish good cause was deemed non compliant for failure to attend and participate in the required 30 hours a week in July 2009 and the Department closed the Claimant's FIP benefits.
- (10) The Department sent the Claimant a Notice of Case action on September 29, 2009 closing her FIP case for 3 months from November 1, 2009 through January 31, 2010 due to her failure to participate in the JET program
- (11) The Claimant called her worker in November, after the case closure, to advise she did not receive notice of the triage scheduled and held September 10, 2009.
- (12) At the hearing, the Claimant did not submit evidence that she was compliant and met her hours for July 2009 for the JET program.

- (13) Both, the Notice of Noncompliance and the Notice of Case Action were sent to the Claimant at the same address. Exhibits A and C
- (14) The Claimant had applied for FIP benefits as of the date of the hearing.
- (15) On November 25, 2009, the Department received the Claimant's request for hearing protesting the Department's closure of the Claimant's FIP case.

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 p. 1.

However, a failure to participate 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 claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, 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. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. 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.

Before the Administrative Law Judge can review a proper good cause determination, there must first be a determination of whether the claimant was actually non-participatory with the hour requirements for the JET program. There was no evidence submitted by the Claimant to indicate she was in compliance in July, 2009.

The Claimant also claims that she did not receive notice of the triage, having not received the Notice of Non Compliance. Both, the Notice of Non Compliance and the Notice of Case Action were sent to the Claimant at the same address which was the address confirmed at the hearing by the Claimant as her address. The DHS Notice of Non Compliance was properly addressed. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969);

Good v Detroit Automobile Inter-Insurance Exchange, 67 Mich App 270 (1976). The letter was properly address and there being no evidence that the Claimant had other issues receiving mail, the presumption is that the letter was sent and received. The assertion by the Claimant that she did not receive the Notice of Non Compliance without more is not sufficient to make a finding that the Claimant did not receive notice of the triage meeting and excuse her non attendance. The Claimant waited until her benefits were about to be cut off and the case closed before she advised her worker that she did not get the notice. In the request for hearing, the Claimant only mentions not receiving a letter not that she failed to receive a triage.

This being the case, the Department's action closing the claimant's FIP case for failure to participate in the 30 hour requirement was correct. This is also supported by the Claimant who did not offer any credible testimony that she did fulfill her obligation.

After a careful examination of the documentary evidence provided by the Department, the Administrative Law Judge has determined that the Department has met its burden of proof in and is correct in its findings that the claimant failed to participate with JET activities as required.

In the current case, the evidence provided to prove the underlying case—that claimant had failed to attend JET—was sufficient. Therefore, the undersigned must rule that the finding of no good cause and the imposition of a three month sanction, closing the Claimant's FIP case as required by BEM 233A, is correct.

DECISION AND ORDER

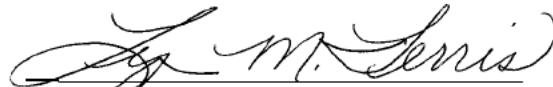
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant was not in compliance with the JET program and that the Department's finding of no good cause, for failure to participate in the JET activities, is correct.

The Notice of Case Action of September 29, 2009 and the Department's decision to terminate the Claimant's FIP benefits for three months beginning November 1, 2009 through

January 31, 2010 was correct as the Claimant did fail to participate with work-related activities and the non compliance sanctions assessed were correct. The noncompliance by the claimant was established and therefore, the three month closure of the Claimant's FIP benefits was correct.

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

The Department's actions, sanctioning the claimant and closing the Claimant's FIP case for three months, is hereby AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/25/10

Date Mailed: 05/26/10

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.

LMF/dj

cc:

