

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201023395

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 6, 2010

Wayne 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 May 6, 2010.

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 Wayne County.
- (2) Claimant was a participant in the JET program.
- (3) On January 11, 2010, JET notified claimant's caseworker that claimant had been non-participatory with JET program attendance.
- (4) Claimant had missed JET on January 11, 2010.

- (5) Claimant attended the triage and advocated that she had been taking care of her ill mother on the day of the missed JET appointment.
- (6) Claimant was not told to submit evidence or verification of the missed date.
- (7) The Department did get confirmation that claimant was currently being paid 13 hours per week to take care of her mother.
- (8) The Department decided that claimant did not have acceptable good cause for her non-participation with JET.
- (9) This is claimant's first alleged non-compliance with JET.
- (10) On February 24, 2010, claimant requested a hearing.

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 non-participation 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.

The Department has met their burden of proof in showing that the claimant was not meeting her participation requirements with the JET program. The Department has shown, through case notes, that claimant missed JET classes on January 11, 2010; claimant was referred to triage for that reason.

That being said, the undersigned believes that the claimant, while not meeting her hour requirements, had good cause for not doing so.

The evidence of record shows that claimant was taking care of her ill mother during the time period in question. Claimant argued this at the triage; however claimant did not present written verification of doing so. BEM 233A requires verification of all claims of good cause.

Claimant submitted, after the hearing, medical documentation dated [REDACTED] that showed that claimant's mother requires 24 hour care. Unfortunately, this evidence was not submitted at the triage, and furthermore, this evidence, while showing that claimant's mother needed this level of care on [REDACTED] does nothing to address whether claimant's mother needed this care at the time of the non-participation.

While there are questions as to whether the Department should have told claimant to submit this written verification, the undersigned sees no need to address this issue. More important is the fact that claimant is only being charged, according to the Department's own evidence, for missing one day of JET: January 11, 2010.

Therefore, claimant only needed to submit evidence showing that she had good cause for missing this one day.

At the triage, claimant alleged that she had been taking her mother to dialysis; the Department then conducted their own investigation, and confirmed that the claimant was paid 13 hours per week to take care of her mother as a home health aide. While this amount would not

normally be sufficient to account for all of claimant's hours of participation, the undersigned notes that there is no allegation that claimant failed to meet all hours of participation—claimant, by the Department's own admission, only missed a single day of JET, far less than the amount of hours claimant was being paid for by the State. Therefore, combined with claimant's statements at the triage, this verification should have been sufficient to confirm claimant's story that she was taking care of her mother on the day in question. If the Department required further verification, it should have asked for that verification. It did not, and therefore, the undersigned must hold that this verification must have been sufficient to prove claimant's story.

The Department felt that this verification was not sufficient, only because it did not show that claimant was meeting her 20 required hours of participation for week. However, claimant was not deemed non-participatory for failing to attend 20 hours; claimant was deemed non-participatory, according to the evidence, for failing to attend a single day. The Department's determination that claimant's mother required assistance was sufficient evidence to show that claimant was indeed taking care of her mother. Therefore, claimant should have been awarded good cause.

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 her failure to attend the JET program during the month of January 2010. The Department was incorrect when it denied good cause for the claimant.

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

The Department is ORDERED to reschedule claimant for all JET classes, if necessary. Benefits shall be restored retroactively to date of negative action, and all penalties resulting from this action shall be removed from claimant's case record.



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

Date Signed: 08/18/10

Date Mailed: 08/18/10

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:

