

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: 201028988
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 26, 2010
Wayne County DHS (15)

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 26, 2010. The Claimant appeared and testified on her own behalf. Chevelle Davis, Jet Coordinator and Patricia Hatched, Jet Worker 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. The claimant was a recipient of FIP (cash assistance) and FAP (food assistance) benefits.

2. The Claimant's FIP benefits were terminated after a first triage was held on February 1, 2010. The Claimant did not attend the triage.
3. The Department and the JET program found the claimant in non compliance with the job search requirements of the Work First program, as she did not attend as required and that good cause was not demonstrated, as the Claimant did not provide proof of her having to attend to her ill baby granddaughter. Exhibit 1
4. The Department's negative action was taken February 5, 2010 due to non compliance by the Claimant with her JET assignment without good cause. The Claimant's FIP benefits were closed for three months effective (3/1/10 through 5/31/10) as this was the Claimant's first triage. Exhibit 2, page 2 of 3
5. The Claimant now has a larger FAP group, as her daughter who lives with her has had a new born child.
6. The Claimant was assigned to volunteer as part of her Work First obligations to get some work experience on December 2, 2009 after a meeting with her Work First Coordinator. The Claimant did not attend the orientation or the program on 12/3/09, 12/9/09, and 12/15/09.
7. The Claimant's granddaughter was ill and required to be taken to the doctor. She was admitted to the hospital but the Claimant did not provide proof of the medical necessity for her granddaughter, to Work First, at the triage or at the hearing held April 27, 2010.
8. The Claimant received the Notice of Non Compliance, issued by the Department on January 21, 2010, and the notice of the triage and did not attend. Exhibit 3

The Claimant also failed to attend other scheduled meetings with the Work First program worker for her non attendance. Exhibit 1

9. The Claimant did not contact her JET supervisor or her caseworker during the period of her non attendance.
10. The Claimant testified that she had to care for her granddaughter and had numerous family issues during the period of her non compliance.
11. The Claimant did not request a deferral based on medical needs of a dependent child and did not provide proof of her grandchild's illness.
12. The Claimant requested a hearing and her hearing request was received by the Department on February 26, 2010 protesting the termination of her FIP benefits.

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.

Because the Claimant acknowledged that she did not attend the work first volunteer program assignment, and also did not provide any documentary evidence of good cause for her

absence, and did not attend the triage, the Department's finding of non-compliance and no good cause must be upheld.

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 and was correct in its finding that the claimant failed to participate with JET activities without good cause. The Department presented documentary evidence which demonstrated that the claimant did not attend the volunteer program she was assigned to and did not provide sufficient evidence that her granddaughter was ill and required care.

The Claimant's failure to communicate with either the Department caseworker or the Work First program during this long period of non-attendance, to advise them what was going on, also influenced this decision. While the Administrative Law Judge is sympathetic to the Claimant's grandchild's illness, and the other stressful issues faced by the claimant with her family, the Department's actions must be upheld, as it was clearly established that the Claimant neglected her responsibilities to comply with the Work First program knowing her benefits could potentially be terminated. The Claimant is encouraged to reapply for FIP benefits when the sanction period is over.

The Department is also advised that it should reassess the Claimant's FAP group as the group may have increased with the birth of the Claimant's grandchild who lives with the Claimant. This information was provided by the Claimant at the hearing. The Claimant may be entitled to an increase in FAP benefits.

The Case Notes, Exhibit 2, provided sufficient foundation to support the Department's case that the claimant failed to meet her required JET program activities and that the claimant did not demonstrate good cause.

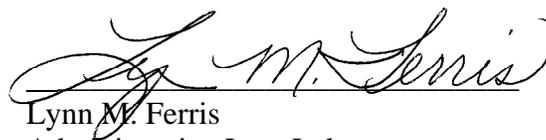
In the current case, the evidence provided to prove the underlying case—that claimant had failed to attend JET without good cause was sufficient. Therefore, the undersigned must rule that the finding of no good cause and the imposition of a three month sanction, closing the Claimant’s FIP case as required 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 the Claimant’s failure to attend is correct.

The February 5, 2010 Notice of Case Action and the Department’s decision to terminate the Claimant’s FIP benefits for three months is correct, as the Claimant did fail to participate with work-related activities without good cause and the non compliance sanctions assessed were correct. The noncompliance by the claimant was the first non compliance 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.



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

Date Signed: 06/07/10

Date Mailed: 06/08/10

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

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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:

