

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

IN THE MATTER OF:



Reg. No: 201029259

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 2, 2010

Macomb 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 June 2, 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 Macomb County.
- (2) On March 4, 2010, claimant was referred to triage for a failure to meet required job search hours with the JET program.
- (3) Claimant was allegedly not meeting her required hours of work participation and had missed several class dates with no excuse.

- (4) Claimant missed class or failed to turn in assignments for the dates of February 2, February 5, February 10, February 12, February 22, February 24, February 25, and February 26, 2010.
- (5) Claimant attended a doctor appointment on February 26, 2010.
- (6) On March 5, 2010, claimant was issued a notice that scheduled a triage for March 11, 2010.
- (7) Claimant was told to bring verification for all dates missed.
- (8) Claimant attended the triage and a determination of no good cause was made.
- (9) Claimant offered proof of [REDACTED] doctor appointment.
- (10) Claimant did not offer any proof of good cause for her absences or failure to turn in assignments on the other dates in question.
- (11) On March 19, 2010, claimant's case was scheduled to be placed into negative action.
- (12) On March 22, 2010, claimant requested a hearing stating that she disagreed with the Department's action.
- (13) This is claimant's second incident of noncompliance.

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...” PEM 233A pg. 1.

However, a failure to attend work related activities can be overcome if the client has “good cause”. Good cause is a valid reason for failing to attend employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. **A claim of good cause must be verified and documented.** The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance, on the FIP case, the client can be excused, with certain conditions, as outlined on a DHS-754, First Noncompliance Letter. This is claimant’s second alleged incident of noncompliance; claimant is therefore ineligible for a DHS-754.

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. BEM 233A.

Claimant has not argued that she missed participation hours during the time in question, but argued instead that she had good cause for the non-participation. In support of her arguments, the claimant testified with regard to medical issues, and submitted as proof a doctor's note from [REDACTED].

The undersigned has examined the evidence, and finds that claimant can be given good cause for that date only. Claimant's doctor's note for [REDACTED] shows that claimant was receiving medical care that day and thus should be given good cause.

However, that is one day of many. Department case notes show that claimant has missed a total of 4 other days of JET, and failed to submit required assignments on 3 more days. Claimant did not provide a satisfactory reason at the hearing for those absences. Claimant did not submit or provide evidence of good cause for those dates before the triage. Therefore, while the undersigned admits that claimant had good cause for one of the days in question, this finding does nothing to mitigate claimant's other absences. Claimant indisputably missed many days of the JET program, and has not provided proof or verification of the reasons for missing those days. Because of these missed days, claimant did not meet her hour requirements, and thus, was non-participatory. Claimant has provided no evidence of good cause for the reason she missed those dates, as is required by policy; therefore the undersigned must find that claimant was noncompliant.

Good cause must be verified; claimant has failed to do so. Therefore, the

Department's finding of no good cause was correct, and claimant is therefore, noncompliant.

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 participate in work-related activities, and is therefore, noncompliant.

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: 09/09/10

Date Mailed: 09/13/10

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:

