

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: 20103532
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 10, 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 February 10, 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 and a JET participant.
- (2) Claimant did not meet her hourly participation requirements during June, 2009.
- (3) On July 24, 2009, claimant was referred to triage by JET officials for failing to attend work-related activities.

- (4) On September 8, 2009, the triage was held; claimant attended the triage.
- (5) During the time period in question, claimant was homeless, after a fire had destroyed her home in May, 2009.
- (6) Claimant had been attempting to get back on her feet during this time period and was transient.
- (7) The Department was aware of this, and in fact had given claimant good cause because of the fire at a previous triage in June, 2009.
- (8) JET was aware of this factor as well.
- (9) The Department declined to award good cause.
- (10) Claimant was deemed noncompliant.
- (11) This was claimant's first incident of noncompliance.
- (12) Claimant's case was pended to close with a sanction period of 90 days.
- (13) On September 28, 2009, 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 “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 pg. 1.

However, a failure to participate in 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 individual. BEM 233A. A claim of good cause must be verified and documented. BEM 233A states that:

“Good cause includes the following...

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities....”

The penalty for noncompliance is FIP closure. 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. BEM 233A.

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. Good cause can be verified by information already on file by MWA or DHS.

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 not met their burden of proof in showing that the claimant was non-participatory. The Department did not show that claimant had been notified that she was to return to JET. The Department argued that this was because claimant was homeless during the time period in question and they were unable to mail the form; however, regardless of whether the claimant could have received the form, if mailed, it is clear from the facts of the case that claimant did not receive the form. As claimant did not receive the form, claimant was not notified, and thus, could not have been non-participatory.

Furthermore, even if this was a valid argument for non-participation, the undersigned will note that by advancing this argument, the Department implicitly acknowledges that claimant had good cause (as homeless is a specific reason given in BEM 233A for good cause). However, for the purposes of argument, the undersigned will examine the claimant's good cause claim.

Good cause is a valid reason for non-participation that is based upon factors beyond the control of the individual. The Department argued that the claimant was not able to be awarded good cause because the claimant failed to verify that she had been involved in a house fire during the time in question. Claimant admitted that she had been unable to secure the fire report.

However, BEM 233A states that good cause may also be determined by information already on file with MWA or DHS. DHS admitted during the hearing that claimant had been

given good cause in June for failing to attend JET because of the same house fire. JET case notes are rife with mentions that claimant was homeless and that claimant had been involved in a fire. The Department had been operating under the assumption for months that claimant was homeless. The undersigned holds that the Department was aware and accepted claimant's story of events, and as such, the information was therefore on file with the Department. As this information was on file with the Department, claimant did not have to return physical verification.

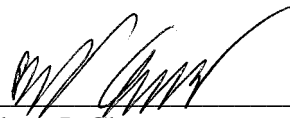
As claimant's troubles are exactly the sort that was anticipated by the good cause requirements, the Department should have granted good cause to the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did have good cause for her failure to attend the JET program during the month of July, 2009.

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

The Department is ORDERED to remove all negative actions on claimant's case resulting from the above matter, and restore claimant's FIP benefits retroactive to the date of negative action. Claimant is to be reassigned to all JET classes, if necessary.



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

Date Signed: 04/07/10

Date Mailed: 04/07/10

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

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