

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: 201037358

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 24, 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 June 24, 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) On May 6, 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 had no participation hours for the month of March.
- (5) Claimant alleged that her child was ill during this time period.
- (6) Claimant did not offer any verification for these absences.
- (7) On May 6, 2010, claimant was sent a DHS-2444, Notice of Noncompliance, which scheduled a triage for May 14, 2010 at 9:20am.
- (8) Claimant was told to bring verification for all dates missed.
- (9) Claimant attended the triage and a determination of no good cause was made.
- (10) This is claimant's first alleged incident of noncompliance.
- (11) Claimant did not offer any proof of good cause for her absences at the triage.
- (12) On May 14, 2010, claimant's case was scheduled to be placed into negative action.
- (13) On May 25, 2010, claimant requested a hearing, stating that she disagreed with the Department's action.
- (14) This is claimant's first incident of noncompliance.
- (15) Claimant was not offered a DHS-754.

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; claimant was not offered a DHS-754. However, the DHS-754 must be offered should the undersigned find claimant noncompliant. If claimant signs the DHS-754, claimant will be returned to JET without loss of benefits. BEM 233A.

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. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date; should a determination of no good cause be made, claimant’s may agree to the conditions set forth in the DHS-754 to avoid a sanction. 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 that her daughter was ill.

Unfortunately, claimant has not provided any documentation in support of that testimony. Claimant did not submit or provide evidence of good cause for her missed JET dates before the triage or at the triage. Therefore, while the undersigned admits that claimant may have had good cause for missing the days in question, good cause cannot be awarded without some sort of independent evidence, per BEM 233A.

Claimant indisputably failed to attend JET and has not provided proof or verification of the reasons for missing those days. Claimant has provided no evidence of good cause for the reason she missed the dates in question, 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.

However, all evidence in the case file indicates that this is claimant's first incident of noncompliance. Noncompliance is defined as a failure to participate with work-related activities, without good cause. For a first incident of noncompliance, BEM 233A states that a DHS-754 should be given to the claimant to avoid the sanction associated with the noncompliance finding.

BEM 233A provides that the claimant is to be re-offered the DHS-754 if the Administrative Law Judge finds the claimant noncompliant; by signing it, claimant may avoid a sanction and loss of benefits. The Administrative Law Judge has found the claimant noncompliant. Therefore, a DHS-754 is appropriate, and the Department must offer the claimant a chance to get into compliance and avoid the loss of benefits.

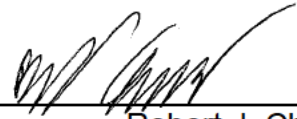
DECISION AND ORDER

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**.

As this is the claimant's first incident of noncompliance, the Department is **ORDERED** to provide claimant with a DHS-754 so that claimant may be offered a chance to get back into compliance in order to avoid a sanction. Should claimant sign this form, the Department is **FURTHER ORDERED** to restore claimant's FIP grant

retroactively to the date of negative action and reschedule claimant for all required work-related activities.



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

Date Signed: 10/13/10

Date Mailed: 10/15/10

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:

