

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: 2010-5440
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 17, 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 17, 2010.

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) Claimant was a FIP applicant in Wayne County.
- (2) Claimant was scheduled to attend JET classes in October, 2009.
- (3) The Department received notification that claimant had not attended required classes during that month.

- (4) Claimant had attended the required classes and had been sick on one of the days of the required classes for which she had notified JET.
- (5) Claimant's FIP application was denied because claimant had failed to attend JET.
- (6) On October 22, 2009, claimant requested a hearing, stating that she had attended all classes.

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. Clients who have not been granted a deferral 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, non-participation 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 non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

After reviewing the facts of the case, the undersigned does not believe that the claimant ever refused to participate in work related activities and was therefore never non-participatory. This finding renders the necessity of a good cause finding moot, as good cause is not at issue. Any finding of the Department that the claimant did not have good cause is thus irrelevant, because no good cause finding was necessary. The issue is not whether the claimant had good cause for her failure to participate; the issue is whether the claimant failed to participate. The Administrative Law Judge holds that claimant participated to the best of her ability.

The Department received notification on October 19, 2009 that claimant had missed three of her required JET classes, on October 1, October 12, and October 19. Claimant submitted evidence, Claimant’s Exhibit 1, which clearly showed that claimant had attended JET on October 12, 2009. Furthermore, claimant testified that she had told JET that she would not be attending class on October 19, due to illness. This was verified at hearing by a doctor’s note. While JET claimed in their notification to the Department that claimant had not notified them of a reason for her October 19 absence, given that JET was completely wrong as to whether claimant had attended class on October 12, 2009, the undersigned finds that JET has very little credibility in this case.

Furthermore, claimant testified that she had turned in her job logs for the weeks in question, contrary to JET’s assertions. Claimant testified, quite credibly, that the caseworker in question had taken her documents and lost them, as the caseworker in question was extremely

disorganized. The Administrative Law Judge finds this credible, given that the caseworker in question told the Department that the claimant had been absent when claimant had in fact, attended.

Therefore, as the Department based their decision on the information that claimant had not attended JET, and claimant had actually attended JET, the Department's decision was based upon incorrect information. Therefore, claimant's FIP application was denied in error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was in compliance with the JET program during the month of October, 2009. At no point did claimant refuse to participate with assigned work-related activities.

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

The Department is ORDERED to process claimant's FIP application of September 9, 2009. Furthermore, the Department is ORDERED to issue claimant any benefits missed as a result of the negative action.



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

Date Signed: 04/28/10

Date Mailed: 04/28/10

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.

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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:

