

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

IN THE MATTER OF:



Reg. No: 20106184
Issue No: 1038;6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 11, 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 March 11, 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?

Was claimant's CDC application properly denied for failing to return verifications?

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 applied for FIP and CDC on September 24, 2009 in Wayne County.
- (2) Claimant was assigned to JET.

- (3) Claimant was 20 years old.
- (4) Claimant was in school at the time.
- (5) Claimant has minor children.
- (6) Claimant did not go to JET because claimant was attending school.
- (7) Claimant was deemed noncompliant and her FIP application was denied on October 22, 2009.
- (8) Claimant also allegedly did not turn in required verifications for the CDC program.
- (9) Claimant turned in all required verifications.
- (10) No evidence or testimony was submitted showing exactly what claimant failed to submit for her CDC application.
- (11) Claimant's CDC application was denied for a failure to return verifications on October 20, 2009.
- (12) On October 30, 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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained 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.

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

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. 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 and met her hour requirements.

At no point does the evidence presented show that claimant failed to meet her hour requirements with the JET program.

After long consideration, the Administrative Law Judge questions whether the claimant should have been assigned to JET in the first place. BEM 230A, pg 5 states, in relevant part:

A **teen parent** is a parent age 18-20 who is either the parent of a dependent child living with him/her or is pregnant. High school completion is the preferred activity for teen parents.

Claimant was working on her high school diploma, and was, at the time of action, 20 years of age. Claimant had dependent children. Therefore, claimant should have been assigned to high school completion. While the Department referred several times to the regulations for minor parent grantees, a minor parent is defined in the glossary as a parent who is not emancipated. The evidence in the file shows that claimant was emancipated, and therefore, could not be considered a minor parent grantee; similarly,

the regulations preceding this with regard to 18 and 19 year olds refer to 18 and 19 year olds in the member group *who are dependents*. Claimant is not a dependent; therefore, these regulations do not apply to the claimant, and claimant must be considered under the teen parent rules. As claimant meets the standards for the rules for teen parents, claimant should have been evaluated as such, and should not have been scheduled for JET.

As claimant should not have been scheduled for JET, claimant could not have missed JET. As claimant could not have missed JET, claimant's FIP application should not have been denied for failing to attend JET.

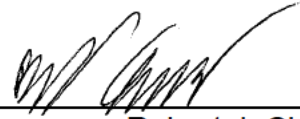
With regard to the claimant's CDC application, there is no evidence that claimant ever failed to return required CDC verifications. Moreover, when asked, the Department could not specifically point to any document that had failed to be returned. A packet submitted the day after the hearing was uninformative; these documents included the requested verifications, and they appeared to be turned in well before the date of negative action. Therefore, as there is no evidence that the claimant failed to return her CDC verifications, the undersigned holds that the claimant did not fail to return the verifications in question.

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. At no point did claimant refuse to participate with assigned work-related activities. The Department was incorrect when it denied claimant's CDC application for failing to return verifications.

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

The Department is ORDERED to reprocess claimant's FIP and CDC application
of September 24, 2009, retroactive to the date of application.



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

Date Signed: 10/25/10

Date Mailed: 10/25/10

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:

