

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

IN THE MATTER OF:



Reg. No: 201010780

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 5, 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 April 5, 2010.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and one year 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 September and October 2009.

- (3) On October 21, 2009, claimant was referred to triage by JET officials for failing to attend work-related activities.
- (4) On November 9, 2009, the triage was held; claimant attended the triage.
- (5) During the time period in question, claimant was homeless after receiving an eviction notice.
- (6) Claimant had been attempting to get back on her feet during this time period and was transient.
- (7) Claimant attempted to explain this at the triage but was told that her particular circumstances did not constitute good cause
- (8) Claimant was not asked at the triage for the evidence she had of good cause.
- (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 November 18, 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.

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 did not allege or provide evidence of good cause during the triage. Claimant alleged that she had attempted to provide evidence that she was homeless during the triage, but was told that her situation, in which she was transient and moving from house to house, would not count as good cause unless she was living in her car.

Homelessness is expressly provided for as a reason for good cause in BEM 233A. Claimant, according to evidence provided, was at the very least, facing eviction and legal troubles. During this time, claimant was attempting to prevent full homelessness and regain stability; MIS case notes show that claimant’s phone had been disconnected and claimant was unable to be contacted for a period of several weeks. While claimant may not have been expressly homeless during the time period in question, the undersigned believes that claimant’s situation still falls under an

unplanned event or factor, which should be used when any claimant falls victim to events that can significantly interfere with JET participation. Claimant was actively trying to prevent homelessness, at the very least, and the undersigned believes that claimant had good cause for not attending JET during the time period in question as she had to focus on stabilizing her living situation.

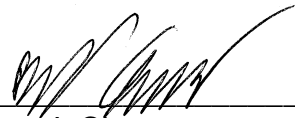
Therefore, as claimant's troubles are exactly the sort that was anticipated by the good cause requirements, the Department should have granted good cause to the claimant.

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 September and October, 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: 08/11/10

Date Mailed: 08/12/10

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:

