

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: 201020266
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 17, 2010
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 telephone hearing was held in Detroit, Michigan on March 17, 2010. The Claimant appeared and testified on her own behalf. Willard Anzaldi, Jet Coordinator and Lorraine Johnson, Michigan Works, Ferndale Career Center appeared on behalf of the Department and JET respectively.

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 recipient in Oakland County.
- (2) Claimant failed to meet her 30 hour obligation with the JET program.

- (3) The Department issued a Notice of Non Compliance on December 1, 2009 advising the claimant that she did not comply with the requirements of the JET program.
- (4) The December 1, 2009 Notice of Non Compliance was the second notice given to the claimant for failing to comply with the requirement of the JET program.
- (5) Pursuant to the notice, a triage on was held on December 11, 2009 and was attended by the Claimant.
- (6) At the triage, the Department found that the Claimant did not establish good cause for her non compliance and terminated her FIP benefits.
- (7) The basis for the Department's good cause determination was based on documents submitted by the claimant to the [REDACTED] to establish the time spent seeking employment. (Exhibits 7 – 14)
- (8) The time log documents contained duplicated forms from prior weeks with the dates changed and the Claimant admitted that some of the activities were not appropriate items to establish time spent on job search.
- (9) The Department issued a prior Notice of Noncompliance on March 18, 2009 and scheduled a triage for March 25, 2009.
- (10) A triage was held on March 25, 2009 and the Department determined that the claimant did not have good cause for her non compliance.
- (11) Pursuant to the triage, the Claimant was offered the opportunity to sign a DHS 754 which she signed on March 25, 2009. (Exhibit 5)
- (12) As a result of the Claimant signing the DHS 754, the Department deleted its negative action which allowed the Claimant's FIP benefits to continue. (Exhibit 16)

- (13) The triage held December 11, 2009 was the claimant's second triage and second non compliance.
- (14) On December 20, 2009, the claimant requested a hearing protesting the closing of her FIP benefits and asserting that the triage of December 11, 2009 was her first non compliance. (Client Exhibit 1)

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 p. 1.

However, a failure to participate 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 claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, 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. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. 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.

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.

Before the Administrative Law Judge can review a proper good cause determination, there must first be a determination of whether the claimant was actually non-participatory with the hour requirements for the JET program.

After a careful examination of the documentary evidence provided by the Department, the Administrative Law Judge has determined that the Department has met its burden of proof in and is correct in its finding that the claimant failed to participate with JET activities as required. The Department presented documentary evidence which demonstrated that the claimant duplicated prior weeks’ job log forms to substantiate her participation in subsequent weeks, and it appears the forms were duplicates. (Exhibits 7 -14)

The Claimant did acknowledge that she did not fully comply with the required hours she was assigned to fulfill and should not have claimed hours that were duplications. A fair examination of the job log documents, submitted by the claimant and introduced as evidence of non compliance by the Department, indicates that the claimant did not fulfill her required hours. These job log documents do not support a good cause finding as the job logs were filled out and completed by the claimant to substantiate her compliance, and as such, was a condition exclusively within the Claimant's control. The job log documents provided a sufficient foundation to support the Department's case that the claimant failed to meet her required JET program activities and that the claimant did not demonstrate good cause.

The Claimant also claims that the first triage held in March of 2009, which resulted in the Claimant being offered and signing a DHS form 754, was in error. The claimant claimed, during the hearing, that the non compliance was a misunderstanding between the Claimant and the JET program worker and that good cause should have been found and that she did not understand the effect of the DHS 754. By signing the DHS 754 form, the claimant avoided sanctions and the Department's negative action was deleted which resulted in the Claimant's FIP case remaining open and active rather than closing for three months as required by BEM 233A. The previous triage and its settlement with the claimant agreeing to and signing DHS 754 is long sense final and cannot be reviewed by this Administrative Law Judge.

In the current case, the evidence provided to prove the underlying case—that claimant had failed to attend JET—was sufficient. Therefore, the undersigned must rule that the finding of no good cause and the imposition of a three month sanction, closing the Claimant's FIP case as required by BEM 233A, is correct.

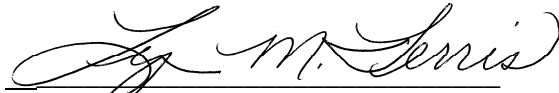
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant was not in compliance with the JET program and that the Department's finding of no good cause, based on the Claimant's job summary submissions, is correct.

The December 11, 2009 decision to terminate the Claimant's FIP benefits for three months is correct as the Claimant did fail to participate with work-related activities and the non compliance sanctions assessed were correct. The noncompliance by the claimant was the second non compliance and, therefore, the three month closure of the Claimant's FIP benefits was correct.

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

The Department's actions, sanctioning the claimant and closing the Claimant's FIP case for three months, is hereby AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/13/10

Date Mailed: 04/16/10

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.

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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.

LMF/dj

cc:

