

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: 201026415
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 14, 2010
Oakland County DHS (2)

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 3-way telephone hearing was held in Detroit, Michigan on April 14, 2010. The Claimant appeared and testified on her own behalf. Diane Dubin, Fim and Lorrain Johnson, Michigan Works appeared on behalf of the Department.

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) As a condition of Eligibility in the FIP program, claimant is a mandatory participant in employment related activities.

- (3) Claimant was assigned to the Jobs, Education and Training (JET, also known as Work 1st) program as part of employment related activities.
- (4) Claimant was required to complete 30 hours a week job search activities as part of her obligations with the JET program.
- (5) The Claimant had a triage on June 2, 2009 which resulted in the Claimant executing a DHS form 754 and a commitment to attend the program per the requirements. Exhibit 3
- (6) On June 17, 2009, the Claimant became non compliant and ultimately another triage was scheduled for July 22, 2009 for non compliance with the 30 hours of job search requirement. At this triage, no good cause was found and the clients case was scheduled to be closed. Exhibit 3
- (7) The Department did not close the Claimant's case in July and August but held another triage on October 15, 2009 for non compliance with the 30 hour job search requirement.
- (8) The Claimant did not attend the JET program and meet her core required 30 hours of job search in July 2009. Thereafter, in August and September, the claimant also had no participation hours.
- (9) The Department issued a Notice of Non Compliance on September 2, 2009 advising the claimant that she did not comply with the requirements of the JET program. Exhibits A and B
- (10) The September 2, 2009 Notice of Non Compliance was the third notice given to the claimant for failing to comply with the requirements of the JET program.
- (11) Pursuant to the notice, a triage was held on October 15, 2009 and was not attended by the Claimant. Exhibit E

- (12) At the triage, the Department found that the Claimant did not establish good cause and was deemed non compliant for failure to attend and participate in the required 30 hours a week job search in July , August and September 2009 and the Department closed the Claimant's FIP benefits.
- (13) The Department sent the Claimant a Notice of Case action on December 15, 2009 closing her FIP case for 3 months from January 1, 2010 through March 31, 2010 due to her failure to participate in the JET program. Exhibit 4
- (14) At the hearing, the Claimant did not submit evidence that she was compliant and met her hours for July, August and September 2009 for the JET program. The Claimant got the Notice of Non Compliance but got the dates confused and thus missed the triage. (Claimant Exhibit 1)
- (15) The Claimant testified at the hearing that she had spent her funds in gas for transportation when her vehicle broke down and had no way of getting to the JET offices. (Claimant Exhibit 1)
- (16) The Jet worker testified that the claimant was advised that she was eligible for bus tickets and a gas card for gas for her vehicle.
- (17) The Claimant did speak to her JET worker during the three month period and was told by her JET worker that she could come in and get bus tickets. The Claimant did not come in to get the bus tickets because she said had no way of getting there.
- (18) On December 18, 2009, the Department received the Claimant's request for hearing protesting the Department's closure of the Claimant's FIP case.

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. There was no evidence submitted by the Claimant to indicate she was in compliance in July, August or September 2009. In fact, the claimant began to be non compliant right within weeks of signing a Form 754 which allowed her FIP benefits to be maintained after the first triage. The testimony offered by the Claimant also did not support a basis for a finding of good cause. The Claimant indicated that her car broke down and that she could not come by to get the bus tickets offered to her. The claimant could not recall when her car broke down. These facts do not support a finding of good cause.

In Determining whether good cause has been demonstrated for non compliance with a JET requirement the standard to be applied is provided in BEM 233A page 3:

Good cause is a valid reason for noncompliance with employment and/ or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients.

While in the first instance, car breakdown is out of one's control and thus potentially a basis for good cause, the basis for the good cause must be verified and documented. The Claimant did not provide documentation of car breakdown and necessary repairs.

The Claimant's lack of transportation could have been considered a basis for good cause.

BEM 233A page 4 provides that a lack of transportation is good cause if:

The client requested transportation services from DHS, the MWA, or other employment services provider prior to case closure and reasonably priced transportation is not available to the client.

Based on the facts presented in this case, the Claimant was offered transportation by way of bus tickets; however, the Claimant did not give a good explanation as to why she could not get to the JET facility to pick up the offered bus tickets. The lack of transportation could have been remedied with bus tickets and the Claimant could have avoided a loss of FIP benefits.

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 and did not demonstrate good cause why she did not comply with her assigned JET requirements.

In the current case, the evidence provided to prove the underlying case - claimant had failed to attend JET - and that her lack of transportation was not an excuse, after she was offered bus tickets, is sufficient to support the Department's actions. Therefore, the undersigned must rule that the Department's 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.

If the Claimant decides to reapply for FIP benefits, the client should be aware and cautioned that when she is reassigned to JET, any further non compliance, as determined by the

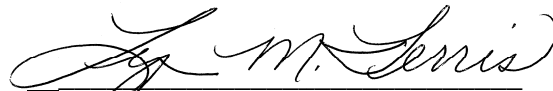
Department after a triage, could result in the closure of the Claimant's case for a 12 month period - should a third non compliance be established.

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, for failure to participate in the JET activities, is correct.

The Notice of Case Action of December 15, 2009 and the Department's decision to terminate the Claimant's FIP benefits for three months, beginning January 1, 2010 through March 31, 2010, was correct as the Claimant did fail to participate with work-related activities. Based upon the facts presented at the hearing, the non compliance sanctions assessed were correct as no good cause was demonstrated. The noncompliance by the claimant was established, and therefore, the three month closure of the Claimant's FIP benefits was correct.

Accordingly, 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: 05/25/10

Date Mailed: 05/26/10

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:

