

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: 201034331
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 9, 2010
Wayne County DHS 55

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 June 9, 2010. The Claimant appeared and testified on her own behalf. Brenda Sage, FIM and Francine Harrison, ES 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 and FAP recipient in Wayne County.
- (2) Claimant was assigned to attend Work First and failed to meet her 30 hour attendance obligation with the JET program. Exhibit 1

- (3) The Department issued a Notice of Non Compliance on March 29, 2010 advising the claimant that she did not comply with the requirements of the JET program.
Exhibit 2
- (4) The Claimant was cited for non compliance in that she had not attended JET since December 6, 2009 and did not respond to calls made and letters sent to her by Work First seeking her participation in the Work First Program. Exhibit 1
- (5) The Claimant acknowledged receiving the Notice of Non Compliance and did not attend the triage as she was under stress due to incarceration in January 2010 for one week due to unpaid traffic citations. The Claimant honestly admitted that she did not attend because she was dealing with her legal problems.
- (6) The Claimant was not incarcerated on the date of the triage.
- (7) The Notice of Non Compliance was the first notice given to the claimant for failing to comply with the requirement of the JET program.
- (8) Pursuant to the notice, a triage was held on April 13, 2010 and was not attended by the Claimant. The Claimant did receive the Notice of Non Compliance.
- (9) At the triage, the Department found that there was no good cause for the Claimant's failure to attend the program and the non compliance was upheld and sanctions were imposed. The Claimant's FIP benefits were terminated for three months and her FAP benefits were reduced. Exhibit 3
- (10) Although the Claimant's hearing request stated she was in school, the Claimant did not provide evidence to Work First of her enrollment. Client Exhibit 1
Hearing Request.

- (11) On April 22, 2010, the claimant requested a hearing protesting the closing of her FIP benefits which was received by the Department May 18, 2010. (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. The Department presented documentary evidence which demonstrated that the claimant did not attend the work first program after being called by the work first program and being sent a letter seeking her participation in the program. (Exhibit 1)

The Claimant did acknowledge to her credit that she was non compliant and simply did not attend the triage as she had other stressful issues she was dealing with. A fair examination of the case notes submitted by the Department and introduced as evidence demonstrates that the Claimant did not attend Work First after December 6, 2009 through the date of the triage, and thus has established non compliance and no good cause based on the information available at the triage. The Case Notes 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.

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.

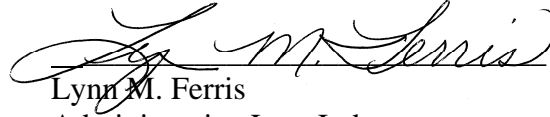
DECISION AND ORDER

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 Work First program and that the Department's finding of no good cause must be AFFIRMED.

The Department's determination to impose a three month sanction and to terminate the Claimant's FIP benefits for three months is correct as is the Department's reduction of the Claimant's FAP benefits, as the Claimant did fail to participate with work-related activities and the non compliance sanctions assessed were 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: 06/22/10

Date Mailed: 06/23/10

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.

LMF/dj

cc:

