

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: 201035893
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 14, 2010
Wayne 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 June 14, 2010. The Claimant appeared and testified on her own behalf. Eileen Kott, FIM and Darlene Garner, FIS 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 Wayne 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) orientation after it was discovered the Claimant had not been referred to Work First.
- (4) Claimant was required to attend the Work First orientation on May 10, 2010 pursuant to a Notice of Jobs Orientation dated April 29, 2010. Exhibit
- (5) The Claimant did not attend the orientation and did not arrange for transportation or bus tickets from the Department.
- (6) On the Date of the orientation, May 10, 2010, the Claimant went to the Department around the time of her JET orientation but did not attend the orientation at JET which was about a block away.
- (7) When the Claimant did not attend the orientation, the Department scheduled a triage by telephone on May 19, 2010 and spoke with the Claimant and determined that the Claimant did not demonstrate good cause for her non attendance at the orientation.
- (8) The Claimant did not dispute these facts, except testified that she had no transportation and had to walk.
- (9) This was the Claimant's first non compliance with the JET program.
- (10) The Department closed the Claimant's FIP benefits on May 1, 2010.
- (11) The Department did not send the Claimant a Notice of Case action with regards to the triage, as the Claimant had already requested a hearing. The Department did not, as of the hearing, impose a 3 month sanction on the Claimant's FIP benefits, although her FIP case was closed.
- (12) At the hearing, the Claimant admitted that she did not attend the orientation. The Claimant had previously attended Work First and did not think that she would be

allowed to attend if she came late. She testified that her mind was not focused on attending but on other matters.

- (13) The Claimant knew she had to attend the orientation but did not do so.
- (14) On May 10, 2010, 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. The evidence submitted by the Department, clearly demonstrated non compliance as the Claimant failed to attend the JET orientation and did not demonstrate good cause for her failure to do so. The testimony offered by the Claimant also did not support a basis for a finding of good cause. The Claimant indicated that she had no transportation but made no effort to obtain bus tickets or reschedule her orientation or speak otherwise with her worker until the triage. 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.

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 did not give a good explanation as to why she could not get to the DHS or JET facility to pick up the bus tickets. The lack of transportation could have been remedied with bus tickets and the Claimant could have avoided a loss of FIP benefits. Additionally, the Claimant was within one block of the Work First location and did not attend the orientation but, instead, went to the DHS offices and filed a notice of hearing. The request for hearing does not indicate that the claimant was protesting her lack of transportation but, instead, the FIP case closure.

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 and is correct in its findings 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.

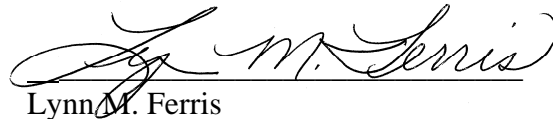
Therefore, the undersigned must rule that the Department's finding of no good cause and the imposition of a three month sanction, closing the Claimant's FIP case as required by BEM 233A, is correct.

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.

Accordingly, the Department's determination, finding the claimant in non compliance with the Work First program requirements and that no good cause was established at the triage, is upheld and AFFIRMED.

The Department is entitled to issue a 3 month sanction for non compliance with Work First by the Claimant, beginning May 1, 2010.



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

Date Signed: 06/21/10

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:

