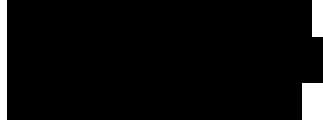


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201039837

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 15, 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 July 15, 2010.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month 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.
- (2) Claimant was a participant in the JET program.

- (3) After a February 2010 triage, claimant was sent back to the JET program with the understanding that she would start JET classes on March 8, 2010.
- (4) Claimant did not tell JET officials that she had an appointment with a doctor scheduled for that day.
- (5) Claimant did not attend JET on that day.
- (6) Claimant went to the appointment and got a note from a doctor excusing the absence.
- (7) Claimant attempted to submit the note to JET officials but was told that she was being sent back to triage.
- (8) Claimant was scheduled for a new triage on May 18, 2010.
- (9) Claimant was told by DHS workers that she would not get a new triage because she had already had a triage in February 2010.
- (10) Claimant left the office without receiving a triage.
- (11) Claimant turned in the doctor's note before the date of negative action.
- (12) The Department decided that claimant did not have acceptable good cause for her non-participation with JET, because she did not turn in the note at the triage, and also because claimant knew that she had an appointment with her doctor when the Department first scheduled claimant's JET start date.
- (13) On June 10, 2010, 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 “non-compliance”. BEM 233A defines non-compliance 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, non-participation can be overcome if the client has “good cause”. Good cause is a valid reason for non-participation with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the non-participatory person. BEM 233A. A claim of good cause must be verified and documented. BEM 233A states that:

“Good cause includes the following...

Illness or Injury

The client has a debilitating illness or injury, or an immediate family member’s illness or injury requires in-home care by the client....”

The penalty for noncompliance is FIP closure. However, for the first occurrence of non-compliance on the FIP case, the client can be excused. 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. At these triage meetings, good cause is determined based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA. 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.

The Department has met their burden of proof in showing that the claimant did not meet her participation requirements with the JET program. The Department has shown, through case notes, that claimant missed JET classes on March 8, 2010; claimant was referred to triage for that reason.

That being said, the undersigned believes that the claimant, while not meeting her hour requirements, had good cause for not doing so.

The evidence of record shows that claimant had a doctor’s appointment the day in question. At the hearing, the Department admitted that claimant did have a legitimate doctor’s note; furthermore, the Department testified that this note was turned in before

the date of negative action. BEM 233A states that proof of good cause must be submitted before the date of negative action. Claimant did so. While there were problems with the triage, claimant did turn in proof of good cause, and this good cause should have been considered in the Department's final determination.

The Department argued that while claimant probably did have good cause, good cause was not given because claimant knew beforehand that she had a doctor's appointment. While the Administrative Law Judge is extremely sympathetic to this reasoning—if the claimant knew she had an appointment, it was a simple matter to alert the Department when everybody was jointly scheduling her return to JET—the fact of the matter is that there is no requirement in BEM 233A that a claimant notify or provide proof of good cause before the reason for that good cause is necessary. BEM 233A states that verification of good cause should be provided before the date of negative action—claimant did so. Furthermore, the Department admitted that this doctor's note was proof of good cause; the negative action stemmed not from the substance of the note, but from when it was turned in. However, the undersigned must only be concerned with the substance of the good cause. Good cause was proven—claimant had a note excusing her absence—and the Department was aware of this before the date of negative action. Therefore, good cause must be given.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant had good cause for their failure to attend the JET program during the month of January 2010. The Department was incorrect when it denied good cause for the claimant.

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

The Department is ORDERED to reschedule claimant for all JET classes, if necessary. Benefits shall be restored retroactively to date of negative action, and all penalties resulting from this action shall be removed from claimant's case record.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 09/08/10

Date Mailed: 09/09/10

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:

