

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201040572

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 21, 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 21, 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 2, 2010.
- (4) JET was aware that claimant had a mandatory doctor appointment on [REDACTED].
- (5) JET allowed claimant to leave early to get to the appointment; however, claimant was not allowed to leave for the appointment until she completed testing at her JET location.
- (6) As a result, claimant missed the doctor appointment.
- (7) Claimant notified JET immediately that she had missed the appointment, and requested to come back to JET.
- (8) Claimant was not allowed to return to JET.
- (9) Claimant attended a triage regarding the matter on June 18, 2010.
- (10) The Department decided that claimant did not have good cause for missing JET on March 2, 2010.
- (11) Claimant's FIP case was closed and a 90 day sanction was applied to claimant's case.
- (12) On June 18, 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...

Unplanned Event or Factor

Credible information indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities....”

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 cannot 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 2, 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. The MIS case notes, Department Exhibit 3, show that JET was aware of the issue, and a medical deferral was being considered with regard to claimant’s JET

requirements. Claimant had been released from JET classes early to allow her time to attend the appointment.

Furthermore, claimant testified, with no rebuttal, that, although she missed the appointment in question, it was missed because she was not allowed to leave at the prearranged time, but instead, was required to stay until she had finished some program testing. Nobody from the Department who was familiar with the case or who could testify to the actual events was present at the hearing.

Normally, good cause requires some sort of verification in order to be accepted as good cause. However, in the present case, the undersigned believes that this verification is unnecessary, principally because JET, and by proxy, the Department, had already agreed that claimant would be allowed to attend the appointment. Claimant had submitted to the Department, prior to the appointment, verification of the upcoming appointment. Therefore, there is no dispute that the reason claimant left JET early was to go to the appointment.

Indeed, the main dispute in the case stems not from the fact that claimant had an appointment—which is beyond dispute—but rather, the fact that the claimant missed the appointment and was unable to provide verification of the same.

This too, does not require verification. BEM 233A states that good cause may be determined or verified by information already within the possession of the Department. In the current case, JET officials prevented claimant from leaving at a reasonable time to attend her appointment. This fact was testified to by the claimant, was not rebutted by the Department, and is information that the undersigned finds credible.

Therefore, JET, and by proxy, the Department, was already aware of the fact that claimant was unlikely to make her appointment on time. The fact that claimant later called to report that she had missed the appointment should have been no surprise, and in fact, bolsters the credibility of the claimant's testimony—it is unlikely that the claimant would have purposely skipped her appointment, and then later contact JET to alert them to that fact.

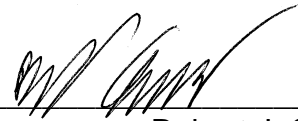
Thus, as the Department was aware that claimant would have missed her appointment, the Department was aware of existing information that would contribute to good cause for missing her JET classes. One reason for good cause is an unplanned event or factor that prevents claimant from attending JET—exactly the situation in the current case. Therefore, as the Department was aware of a reason for good cause, the Department should have made a determination of good cause; no independent verification from the claimant was necessary. Therefore, the decision of the Department to not award good cause to the claimant for her missed class of March 2, 2010 was incorrect, and must be reversed.

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 her failure to attend the JET program during the month of March, 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: 12/14/10

Date Mailed: 12/20/10

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:

