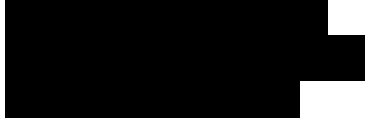


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201045473

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 26, 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 August 26, 2010.

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) Claimant was a mandatory JET participant.
- (3) Claimant was required to submit job search logs as part of her continuing participation in the JET program.
- (4) Claimant turned in these logs.

- (5) Claimant may have mixed up some phone numbers for the jobs she had placed on these job logs.
- (6) Claimant was placed into noncompliance status because of these allegedly wrong phone numbers.
- (7) Claimant was not allowed to correct these phone numbers, and JET officials never attempted to verify the actual phone numbers or whether claimant had actually conducted a job search at these locations.
- (8) Claimant's allegedly faulty job logs were submitted as part of a 10-day compliance test; as a result, no triage was required, per BEM 233A.
- (9) Claimant's FIP case was subsequently sanctioned for 90 days.
- (10) On June 24, 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. Clients

who have not been granted a deferral 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 pg. 1.

However, non-participation 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 non-participatory person. BEM 233A. A claim of good cause must be verified and documented.

The penalty for noncompliance is FIP closure. 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. BEM 233A. 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.

After reviewing the facts of the case, the undersigned does not believe that the claimant refused to participate in work related activities, and was not non-participatory. This finding renders the necessity of a good cause finding moot, as good cause is not at issue. The issue is not whether the claimant had good cause for her failure to participate; the issue is whether the claimant failed to participate. The Administrative Law Judge holds that claimant participated to the best of her ability and met her hour requirements.

At no point does the evidence presented show that claimant failed to meet her hour requirements with the JET program.

At issue were job logs which were allegedly fraudulently obtained. However, these job logs were not submitted at the hearing; no testimony was offered from any person who was familiar with these job logs. As such, the Department has not submitted any evidence that claimant fraudulently filled out her logs.

On the other hand, claimant testified, with no rebuttal, that she had filled out the job logs, and at most mixed up a few of the required phone numbers. Claimant also testified that she was not offered a chance to prove that she had actually completed the job search in question. In the absence of rebuttal testimony, or the testimony from any person with first hand knowledge of the facts at hand, the Administrative Law Judge finds that claimant completed all required job search, and was thus in compliance with her work-related requirements. It should be noted that Department Exhibit 2, the MIS case notes, also does not question the truthfulness of claimant's job logs, nor at any point questions whether claimant completed her required activities; the case notes instead take issue with the fact that some phone numbers appear to be wrong.

Therefore, as the Department has presented no evidence that claimant failed to comply, beyond incorrectly writing down a few phone numbers, which she offered to correct, the undersigned has no choice but to rule that the Department has failed to prove that claimant was non-participatory. As such, claimant did not fail to participate and should not have been sanctioned.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was in compliance with the JET program during the month of June 2010. At no point did claimant refuse to participate with assigned work-related activities.

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

The Department is ORDERED to remove all negative actions placed upon claimant's FIP case in regard to this action, and reschedule claimant for JET classes. Furthermore, the Department is ORDERED to issue claimant any benefits missed as a result of the negative action.



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

Date Signed: 09/07/10

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:

