

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: 201048565

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 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 September 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 referred to JET.
- (3) Claimant attended the JET program.
- (4) Claimant was assigned to the job search program.
- (5) Claimant was responsible for a participation level of 20 hours per week.

- (6) Claimant was short on participation hours for the week of May 3, May 10, and May 17, 2010.
- (7) Claimant started an education program on May 13, 2010.
- (8) This program was not approved by the JET program, because of a dispute over claimant's test scores.
- (9) Claimant did not participate during the weeks of May 10 and May 17, 2010, because of this dispute over test scores; claimant felt that her educational program should have been approved by the JET program.
- (10) On June 7, 2010, claimant was referred to triage for a failure to attend the JET program.
- (11) On July 13, 2010, a DHS-2444, Notice of Noncompliance was sent to the claimant.
- (12) This notice scheduled a triage appointment for July 19, 2010.
- (13) Claimant did not receive this notice until July 19, 2010.
- (14) Claimant did not attend the triage.
- (15) Claimant's caseworker conducted the triage in claimant's absence, and used case notes and other best known information in order to make a determination of no good cause.
- (16) Claimant contacted her caseworker on July 21, 2010.
- (17) During this contact, claimant explained her situation at JET.
- (18) Claimant did not offer any verification of good cause, or a reason for missing her required hours beyond the approved educational program dispute.

- (19) The determination of no good cause was upheld after a consideration of claimant's statements during the contact.
- (20) This is claimant's second alleged incident of noncompliance.
- (21) On July 20, 2010, claimant's case was scheduled to be placed into negative action.
- (22) On August 3, 2010, claimant requested a hearing, stating that she disagreed with the Department action.

### 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...” PEM 233A pg. 1.

However, a failure to attend work related activities can be overcome if the client has “good cause”. Good cause is a valid reason for failing to attend employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the claimant. BEM 233A. A claim of good cause must be verified and documented. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance, on the FIP case, the client can be excused, with certain conditions, as outlined on a DHS-754, First Noncompliance Letter. BEM 233A.

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. BEM 233A.

Claimant protested that Department policy requires 10 day notice with regard to triage appointments; the Department sent claimant notice on July 13, 2010, for a triage scheduled for July 19, 2010. Claimant did not attend the triage, and the caseworker assigned to claimant’s case held the triage in claimant’s absence, per policy found in BEM 233A. Using the case notes in the case, as well as all other known information, the caseworker was unable to find good cause in the claimant’s case. Claimant argues that this notice was improper, and claimant should be entitled to a second triage.

After consideration, the undersigned believes that while the Department erred in sending claimant notice, this error was harmless.

Claimant contacted the Department on July 21, 2010, to protest the triage notice. When contacted, claimant's caseworker credibly testified that she listened to claimant's statements, considered good cause, and ultimately decided that the claimant, after making her case, still did not meet the requirements necessary for a finding of good cause. Claimant, if she had been in possession of evidence of good cause, would have been allowed to present said evidence; claimant was not in possession of this evidence. Therefore, the caseworker in question upheld her decision of no good cause.

While the Department should have sent the notice out at least 10 days in advance, the undersigned does not believe that it would have made a difference in the present case. Claimant, upon contacting the Department, was still heard. Claimant was allowed to present evidence of good cause. The Department caseworker reconsidered her decision upon hearing from the claimant. This course of action is no different than if the claimant had actually attended the triage, except perhaps that the triage was face to face, and claimant contacted her caseworker by telephone. However, as policy specifically allows for triages by telephone, the undersigned does not believe that the claimant was disadvantaged by this contact. Therefore, as claimant was given an opportunity to be heard, and claimant's testimony was considered before the ultimate decision, the undersigned holds that the defective triage notice, though improper, was ultimately harmless.

The Department testified credibly that claimant missed required hours during the month of May, 2010, was sent to a triage, and given a triage determination of no good cause. Documentation and policy shows that claimant is a mandatory JET participant. Claimant did not dispute that she had missed the hours in question. Therefore, the

undersigned finds that the proper procedures were followed in assigning claimant to JET and referring claimant to triage.

Claimant has not argued that she missed participation hours during the time in question, but argued instead that she had good cause for the non-participation. Claimant argued that her educational program should have been approved in lieu of participation hours, and the JET program failed to act in a timely manner in approving claimant's educational program. Claimant needed to have certain basic educational test scores above a certain level in order to secure approval for outside schooling; according to the claimant, JET officials never examined her most recent test scores in order to approve claimant for her educational program. Had JET officials examined her scores, claimant would have had her educational program approved, and would not have been non-participatory.

While the undersigned finds claimant credible in her assertion that the JET officials in question were lax in examining her test scores, this assertion ignores a fundamental point in the case at hand: claimant missed participation hours before claimant had even begun her educational program, before the test score dispute was even relevant.

Claimant Exhibit 1, Test Scores, also contain claimant's hourly participation in the JET program during the time in question. Claimant did not complete required hours during the week of May 3, May 10, and May 17, 2010. By her own testimony and written documentation, claimant did not start her educational program until May 13, 2010. Thus, even assuming that claimant should have been approved for her educational program, claimant would not have the required participation hours for the week of May 3, 2010. As of this writing, claimant has provided no reason or verification

as to her failure to participate during this week. As claimant did not start her education this week, the undersigned cannot award good cause due to claimant's educational requirements.

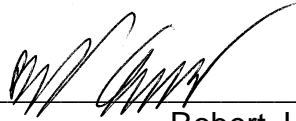
A claim of good cause must be verified. Claimant was non-participatory during the week of May 3, 2010. No proof or verification for this non-participation has been offered. Claimant has not given a reason for missing her participation requirements for this week. Therefore, the undersigned is unable to award good cause.

As good cause is unable to be awarded, the undersigned must hold that the Department did not err when it held that claimant did not have good cause for the time period in question, and the actions of the Department must be upheld.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did not have good cause for her failure to participate in work-related activities, and is therefore, noncompliant.

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

  
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Robert J. Chavez  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 02/15/11

Date Mailed: 02/16/11

**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:

