

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 201053654
Issue No: 1038
Case No: [REDACTED]
Load No: 5012000000
Hearing Date:
[REDACTED]
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED].

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) Claimant failed to attend the JET program in [REDACTED]
- (4) Claimant took her son to the doctor on one of the days in question.

- (5) Claimant did not get a note confirming the appointment.
- (6) Claimant was subsequently referred to triage following the absence.
- (7) Claimant attended a triage regarding the matter on [REDACTED]
- (8) Claimant was given an opportunity to provide verification of the appointment.
- (9) Claimant provided a note for the appointment, but this note had been forged by the claimant.
- (10) The Department did not accept this note as evidence of good cause.
- (11) Claimant did not provide actual verification of good cause before the negative action date.
- (12) The Department decided that claimant did not have good cause for missing JET and was noncompliant.
- (13) Claimant's FIP case was closed and a one year sanction was applied to claimant's case.
- (14) This was claimant's first incident of noncompliance.
- (15) On [REDACTED] claimant requested a hearing.
- (16) On [REDACTED] claimant's doctor faxed a note to the Department verifying the appointment.
- (17) This note was provided after the date of negative 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 “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 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 in July, 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. On [REDACTED] claimant’s doctor sent a note to the Department confirming that claimant was at their office on [REDACTED]. While it is true that claimant initially forged a note from the doctor, this note was not accepted by the Department as legitimate, and has no relevance to the case at hand, except perhaps

towards establishing claimant's lack of credibility. However, as claimant's lack of credibility has no bearing in this case—the undersigned is able to make a determination based entirely on written records, and not testimony—the undersigned feels no need to take into account claimant's lapses in judgment. There is a legitimate note, and therefore, it is undisputed that claimant was at the doctor's office during the date in question.

Unfortunately, claimant cannot be awarded good cause. Policy requires that good cause be verified before the date of negative action—in the current case, [REDACTED]. BEM 233A. Claimant did not verify good cause until a week later, on [REDACTED]. When the negative action was taken, claimant had not verified her claim of good cause.

There are numerous reasons for this policy, but for our purposes, only one of them is important: the Administrative Law Judge must decide the merits of the case based upon the information the Department had at the time they took the action in question. At the time of the action, on [REDACTED] claimant had yet to verify good cause. In fact, claimant had already requested a hearing before the evidence of good cause was submitted. Policy states that all claims of good cause must be verified before the date of negative action. Claimant failed to do so. Therefore, at the time of the action, the Department was operating under the premise that claimant had failed to verify good cause.

The undersigned cannot reverse the Department based upon actions that they took with information that was good at the time. Claimant failed to verify good cause within the negative action period, and therefore, her good cause proof, though

legitimate, cannot be considered in the current case, and the Department's determination of noncompliance must stand.

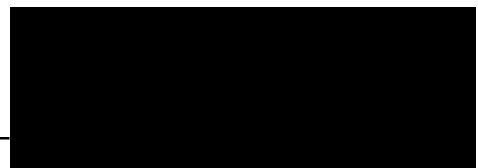
However, as the evidence of record shows that this is the claimant's first incident of noncompliance, claimant can be offered a DHS-754, as provided for in BEM 233A. Should claimant sign that document, claimant must be returned to JET, with no loss of benefits, provided she completes the terms of the DHS-754.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was correct when it denied claimant good cause for the incident in question, and made a determination of noncompliance.

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

The Department is **ORDERED** to provide claimant with a DHS-754, as provided for in BEM 233A. Should claimant accept the terms of the DHS-754, claimant may be returned to the JET program without loss of benefits, as stated in the Bridges Eligibility Manuals.



Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 05/03/11

Date Mailed: 05/05/11

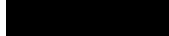
NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or

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:


Macomb County DHS (Dist #12) / DHS-1843


Administrative

Hearings