

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

IN THE MATTER OF:



Reg. No: 201151191
Issue No: 1038
Case No: [REDACTED]
Hearing Date:
September 29, 2011
Wayne County DHS (43)

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 29, 2011 by teleconference in Detroit, Michigan.

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 an FIP recipient in Wayne County.
- (2) Claimant was a mandatory JET participant.
- (3) Claimant allegedly did not meet participation requirements.
- (4) No evidence was submitted to show that claimant was failing to meet participation requirements.
- (5) No evidence was submitted to show how many hours claimant missed, how many days claimant missed, whether claimant was required to attend on certain days, what claimant's hour requirements were, or how claimant was non-participatory.
- (6) No evidence was submitted that claimant was required to attend JET, or that claimant had been scheduled for JET classes, or notified of such scheduling.
- (7) No triage was ever held.
- (8) Claimant's FIP case was subsequently sanctioned for 90 days.

(9) On August 30, 2011, 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 cannot reach the conclusion that claimant missed any hours, and was therefore 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 there is no evidence to show that claimant failed to participate to the best of her ability and meet her hour requirements.

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

The Department was unable to testify as to what days claimant missed, how many hours claimant missed, or what claimant's hour requirements were. No documentation as to these facts was submitted. The Department further failed to submit evidence as to what days claimant had to attend, whether claimant had been assigned to JET, and whether claimant received a notification to attend JET. Therefore, the Department has failed to meet their burden of proof with regard to whether the claimant was actually non-participatory.


The Department has failed to meet their burden in showing that the claimant was actually non-participatory; no evidence has been submitted to prove this allegation. Therefore, the sanction against the claimant cannot stand.

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 months in question.

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 Maura Corrigan, Director
Department of Human Services

Date Signed: 10/04/11

Date Mailed: 10/04/11

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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:

