

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

IN THE MATTER OF:



Reg. No: 201149138
Issue No: 1038
Case No: [REDACTED]
Hearing Date:
September 29, 2011
Macomb County DHS (12)

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 from Detroit, Michigan.

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 an FIP recipient in Macomb County.
- (2) Claimant did not attend required JET appointments.
- (3) Claimant alleged that she was attending classes as a reason for not attending JET.
- (4) Claimant did not meet her required hours and was referred to triage.
- (5) Claimant was given a triage on July 7, 2011.
- (6) Claimant attended the triage.
- (7) At the triage, claimant was given until 1pm that day to return verification of participation or verification of good cause.
- (8) Claimant did not return the verification by that time.
- (9) A determination of no good cause was made.
- (10) The date of negative action in the case was July 18, 2011.
- (11) This is claimant's second alleged incident of noncompliance.

- (12) On August 8, 2011, 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.

Good cause is to be determined based on evidence submitted at the triage *and prior to the negative action date.*

The Department testified, and the records show, that the negative action date in the current case was July 18, 2011. Therefore, according to BEM 233A, claimant had until July 18, 2011, to submit evidence of good cause. The Department erred when it gave claimant only until 1pm the day of the triage to submit evidence of participation or good cause; such an arbitrary deadline is not supported by policy.

Therefore, as the Department did not allow claimant adequate time to submit evidence of good cause, the action in the current case must be reversed.

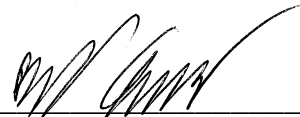
While it is true that claimant was, most generously, lackadaisical in her attitudes towards turning in evidence, and while the claimant garnered no sympathy from the undersigned with her actions in this case, policy is clear. Claimant has until the date of negative action to turn in verification of good cause. By deciding good cause before the date of negative action, the Department was in error, and claimant should be given a chance to resubmit evidence of good cause.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to follow proper procedure when sanctioning claimant's case.

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

1. The Department is ORDERED to allow claimant 10 days from the date of this Decision and Order to submit evidence or verification of good cause or participation.
2. The Department is FURTHER ORDERED to make a determination of good cause with regards to claimant's participation in the JET program at the end of this 10 day period, using all evidence at hand.
3. The Claimant is ORDERED to submit evidence or verification of good cause within 10 days of this Decision and Order.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, 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 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:

