

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20117978

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 23, 2011

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 February 23, 2011.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and one year 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, and a JET participant.
- (2) Claimant did not meet her hourly participation requirements during September, 2010.

- (3) On September 28, 2010, claimant was referred to triage by JET officials for failing to attend work-related activities.
- (4) On October 12, 2010, the triage was held; claimant attended the triage.
- (5) During the time period in question, claimant was in the middle of relocation from [REDACTED]; claimant had left for [REDACTED] with permission to complete the relocation, but had to stay longer than expected.
- (6) Claimant attempted to explain this at the triage, but was told that her particular circumstances did not constitute good cause
- (7) The Department declined to award good cause.
- (8) Claimant was deemed noncompliant.
- (9) This was claimant's first incident of noncompliance.
- (10) Claimant refused to sign a DHS-754, and instead requested a hearing.
- (11) On November 16, 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. 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...” BEM 233A pg. 1.

However, a failure to participate in 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 individual. 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. 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. BEM 233A. Good cause can be verified by information already on file by MWA or DHS.

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.

Good cause is a valid reason for non-participation that is based upon factors beyond the control of the individual. The Department argued that the claimant was not able to be awarded good cause because the claimant did not contact JET to notify them of the late return; this may indeed have been so, but the undersigned finds such a fact, even if true, irrelevant to the case. BEM 233A does not require a claimant to prove good cause at any time before the triage. Claimant’s failure to call would therefore have no effect as to whether her reason for good cause actually constituted good cause.

While the undersigned is notably concerned as to whether claimant’s initial departure is permitted by the regulations, he declines to make a ruling on that issue. The Department and JET both allowed claimant to leave, and therefore the undersigned holds that claimant’s failure to meet hours during the initial absence had been permitted by JET. Therefore, the undersigned will only consider whether claimant’s extension of her leave constituted good cause.

Claimant testified that circumstances beyond her control, necessitated by her relocation, caused the extension in her leave time. After consideration, the undersigned finds this credible. Relocation from a different state can often grow complicated, and claimant's expressed problems were consistent with the fact pattern in this case. Claimant presented at hearing her bus tickets which covered the time missed; therefore the undersigned believes that claimant provided verification. Good cause can be awarded for credible information which indicates an unplanned event or factor which likely prevents or significantly interferes with employment and/or self-sufficiency related activities. BEM 233A. The undersigned believes that claimant has provided this credible information, and claimant's inability to return as expected would interfere with employment related activities. The undersigned believes that claimant would have returned if she could, and the circumstances were necessary to claimant's relocation.

Therefore, as claimant's troubles are exactly the sort that was anticipated by the good cause requirements, the Department should have granted good cause to the claimant.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant did have good cause for her failure to attend the JET program during the month of September, 2010.

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

The Department is ORDERED to remove all negative actions on claimant's case resulting from the above matter, and restore claimant's FIP benefits retroactive to the

date of negative action. Claimant is to be reassigned to all JET classes, if necessary.



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

Date Signed: 06/15/11

Date Mailed: 06/16/11

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:

