

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

IN THE MATTER OF:



Reg. No.: 2011 34416
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 16, 2011
District: Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 16, 2011. The claimant appeared and testified. Patrice Jones, FIM and Harold Allen Jet Coordinator appeared and testified on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) correctly impose a negative case action and three month sanction closing the Claimant's FIP case and reducing the Claimant's FAP benefits 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. On 7/1/10, the Claimant was sent a Notice of Non Compliance for her Work First participation in June 2010. A triage was scheduled on July 8, 2010.
2. The Claimant did not attend the triage. The Claimant testified that she did not receive the Notice of Non Compliance before the triage was held.
3. On May 17, 2011, the DHS sent the Claimant a request by verification checklist requesting that she verify that proof of her daughter's illness and hospitalization in the month of June 2010 with proof of Doctor's appointments that you had to accompany her to.
4. The verification was sent because the Claimant had attempted to contact the Department to verify good cause and the Department had not responded.
5. The verification information was to be received by 5/27/ 11 in order to demonstrate good cause. Exhibit 4

6. The Department checked its sign-in log and determined that the Claimant did return the verification by May 26, 2011, before the due date.
7. At the hearing, the Claimant provided proof of her daughter's illness in May 2010 on several dates and two documents supporting that she went to the emergency room with her daughter for lab work on [REDACTED]. The Claimant also provided proof of a doctor's appointment on [REDACTED] the day after the triage. Claimant Exhibit 1.
8. The Claimant did not attend the Work First program after May 24, 2010 until June 14, 2010.
9. On September 13, 2010, DHS closed the Claimant's FIP case and decreased the FAP benefits imposing a three month sanction, due to the Claimant's non compliance with work related activities.
10. The Claimant requested a hearing on September 28, 2010, protesting the closure of her FIP cash assistance without an opportunity to demonstrate good cause for her non compliance with work related activities.

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 (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R400.3101-3131. 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 p. 1.

However, a failure to participate 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 claimant. BEM 233A. The penalty for noncompliance is FIP closure. However, for the first occurrence of noncompliance on the FIP case, the client can be excused. BEM 233A.

Furthermore, 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. If a client calls to reschedule, a phone triage should be attempted to be held immediately, if at all possible. If it is not possible, the triage should be rescheduled as quickly as possible, within the negative action period. 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.

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.

Before the Administrative Law Judge can review a proper good cause determination, there must first be a determination of whether the claimant was actually non-participatory with the hour or attendance requirements for the JET program.

Based on the record presented, the Claimant was found in non compliance due to attendance in June 2010 for several weeks during which she was assigned to attend and participate in the job search program. The weeks in question were weeks beginning May 24, 2010 through June 2010. Additionally, the Claimant did not show up for a two week period beginning June 1, 2010. While the Claimant did provide a valid excuse demonstrating good cause for [REDACTED] and [REDACTED] overall good cause for non attendance was not shown. Based upon the evidence presented at the hearing, it is clear that the Claimant was in non compliance for June 2010.

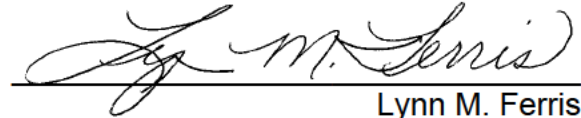
The Claimant testified that she did not attend the triage because she did not receive the notice of non compliance. The notice was properly addressed to the Claimant and is presumed to be received. More importantly, she did not present any proof at the hearing that her daughter was ill on the date of the triage. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on evidence provided by the Department at the hearing, it correctly determined that the Claimant was in non compliance and found no good cause. Even considering the doctor's records submitted by the Claimant to substantiate her non attendance at the triage during the month of June 2010, these records do not support her failure to attend the triage or good cause for non compliance with the Work First attendance requirements.

After a careful examination of the documentary evidence provided by the Department and the Claimant and the testimony of the witnesses, the Administrative Law Judge has determined that the Department's finding of no good cause and the imposition of a three month sanction closing the Claimant's FIP Cash Assistance case is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination of no good cause and its action imposing a three month closure of the Claimant' FIP case is correct and in accordance with Department policy and is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 06/22/11

Date Mailed: 06/24/11

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.

LMF/dj

cc:

