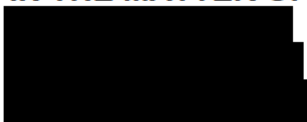


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011 35119
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 22, 2011
Wayne County DHS (35)

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 22, 2011. The claimant appeared and testified. Ursula Barrett, FIM, Kenyatta Hawthorne, Jet Coordinator, and Margo Sherman, Jet Specialist 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 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 April 14, 2011, the Claimant was sent a Notice of Non Compliance for her Work First participation. A triage was scheduled on April 21, 2011. Exhibit 1
2. The Claimant did not attend the triage. The Claimant testified that she did not receive the Notice of Non Compliance.
3. The Department's Notice of Non Compliance was sent to the Claimant at the address she verified as her current address.

4. The Department held a triage on April 21, 2011, and determined, based on the Work First attendance records, that the Claimant did not have good cause for failure to participate and attend the Work First program. Exhibits 3 and 4
5. The Claimant testified at the hearing that she did attend the work first program during February 13, 2011 through April 14, 2011.
6. The Department found no good cause for the Claimant's failure to attend the Work First program from February 13, 2011 through April 14, 2011.
7. The Department issued a Notice of Case Action and closed the Claimant's FIP case, effective May 10, 2011, for a three month period. Exhibit 2
8. This was the Claimant's first sanction for non compliance.
9. The Claimant requested a hearing on May 12, 2010, requesting a hearing on the Department's closure and sanction of the Claimant's FIP cash assistance case due to non compliance with Work First.

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 her failure to attend the Work First program from February 13, 2011 through April 14, 2011. The Claimant's testimony that she attended during the period was not supported by any documents and was found not to be credible in light of the attendance records and notes. These documents support the Department's finding of non attendance without good cause. Exhibits 3 and 4,

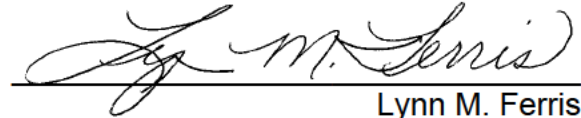
The Claimant did not provide a valid excuse demonstrating good cause for the period and did not attempt to obtain any attendance records from the Work First program which would demonstrate her attendance. Based upon the evidence presented at the hearing it is clear that the Claimant was in non compliance from February 13, 2011 through April 14, 2011 and the evidence established that the Claimant had no good cause for non attendance.

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 at the address she confirmed at the hearing and is presumed to be received. 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). In this instance the Claimant's testimony that her mother did not give her the letter does not rebut the presumption of delivery and receipt. .

After a careful examination of the documentary evidence provided by the Department 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 correct and 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:

