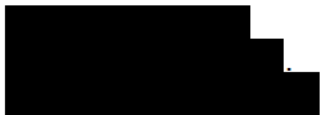


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2012-48518
Case No: [REDACTED]
Issue No: 1038
Hearing Date: May 23, 2012
County: Calhoun County

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on April 20, 2012. After due notice, a telephone hearing was held on May 23, 2012. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Family Independence Program (FIP) benefits for failure to submit a community service agreement?

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 receiving FIP at all times pertinent to this hearing.
2. On March 26, 2012, Claimant met with her JET case worker and was given a community service agreement which she was required to turn in on April 5, 2012. (Department Exhibits J-2).
3. On April 5, 2012, Claimant failed to turn in her community service agreement and was placed in Triage.
4. On April 10, 2012, the department mailed Claimant a Notice of Noncompliance informing her that because she failed to participate as required in employment and/or self-sufficiency related activities, she was

scheduled for Triage on April 18, 2012, at 1:10PM. (Department Exhibits 1-2).

5. On April 18, 2012, Claimant failed to show for her Triage appointment and no good cause was found. (Department Exhibit 3).
6. On April 20, 2012, the department sent Claimant a Notice of Case Action closing her FIP benefits for failing to participate as required in employment and/or self-sufficiency related activities, and informing her that for the second time she had failed to participate in employment and/or self-sufficiency-related activities and as a result, FIP would close for at least 6 months. (Department Exhibits 6-10).
7. Claimant submitted a hearing request on April 20, 2012, protesting the closure of her FIP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, Rules 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code, Rule 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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), Reference Table Manual (RFT), and the Reference Tables Manual (RFT).

Department policy states that Clients must be made aware that public assistance is limited to 48 months to meet their family's needs and they must take personal responsibility to achieve self-sufficiency. This message, along with information on ways to achieve independence, direct support services, non-compliance penalties, and good cause reasons, is initially shared by DHS when the client applies for cash assistance. The work participation program requirements, education and training opportunities, and assessments will be covered by the work participation program when a mandatory work participation program participant is referred at application. BEM 229.

Federal and state laws require each work eligible individual (WEI) in the FIP and RAPC group to participate in the work participation program or other employment-related activity unless temporarily 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 obtain employment. Apply FIP policy to RAPC cash clients. The work participation program is administered by the Workforce Development Agency, State of Michigan (WDASOM) through the Michigan one-stop service centers. The work participation program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. The work participation program case managers use the One-Stop Management Information System also known as the OSMIS to record the clients' assigned activities and participation. In this item the OSMIS is referred to as the Management Information System (MIS). WEIs not referred to the work participation program will participate in other activities to overcome barriers so they may eventually be referred to the work participation program or other employment service provider. DHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP). A WEI who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A.

Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Failing or refusing to:
 - Appear and participate with the work participation program or other employment service provider.
 - Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
 - Develop a FSSP.
 - Comply with activities assigned on the FSSP.
 - Provide legitimate documentation of work participation.
 - Appear for a scheduled appointment or meeting related to assigned activities.
 - Participate in employment and/or self-sufficiency-related activities.
 - Participate in required activity.
 - Accept a job referral.

- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/ or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a “triage” meeting with the client to jointly discuss noncompliance and good cause. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines.

Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, the client is offered a telephone conference at that time. Clients must comply with triage requirement within the negative action period.

The department is required to send a DHS-2444, Notice of Employment and/or Self-Sufficiency Related Noncompliance within three days after learning of the noncompliance which must include the date of noncompliance, the reason the client was determined to be noncompliant, the penalty that will be imposed and the triage date within the negative action period. BEM 233A.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. If it is determined at triage that the client has good cause, and good cause issues have been resolved, the client should be sent back to JET. BEM 233A.

Good cause should be 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. Good cause must be considered even if the client does not attend, with particular attention to possible disabilities (including disabilities that have not been diagnosed or identified by the client) and unmet needs for accommodation. BEM 233A.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count.

In this case, Claimant was required to submit a signed community service agreement by April 5, 2012. Claimant stated that the computer was not working in the JET office, and she did not have transportation, so she made arrangements to go to the library on Friday, April 6, 2012, or Monday, April 9, 2012, to complete the community service agreement there. Claimant admitted that she did not inform JET on or before April 5, 2012, that she was having problems with the computer, and that when she went to JET on April 6, 2012, to inform them she would be turning the community service agreement in on Monday, April 9, 2012, she was informed that she had already been placed in Triage.

During the hearing, when Claimant was asked why she did not attend Triage, Claimant testified that she never received the Notice of Noncompliance giving her the date and time to attend Triage. The Administrative Law Judge finds Claimant failed to provide the necessary evidence that she did not receive the Notice of Noncompliance informing her of her Triage date on April 18, 2012. Claimant testified that she did receive the Notice of Case Action informing her that her FIP case was being closed. It should be noted that both the Notice of Noncompliance and Notice of Case Action were addressed to the same address which Claimant testified was her current address and the department had no record of returned mail.

Moreover, 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). Claimant failed to provide credible, material, and substantial evidence to rebut the presumption of receipt as the department mailed all correspondence to Claimant's address of record.

Therefore, based on the material and substantial evidence presented during the hearing, Claimant failed to show good cause for her failure to submit the community service agreement to JET on April 5, 2012, or to appear for her Triage appointment and the department properly closed Claimant's FIP case for non-compliance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's FIP benefits and applied the six-month sanction. Accordingly, the department's decision is UPHeld.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/24/12

Date Mailed: 5/24/12

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 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.

VLA/ds

■ [REDACTED]