

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2012-55734
Issue No. 1038
Case No. [REDACTED]
Hearing Date: July 2, 2012
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Monday, July 2, 2012. The Claimant appeared, along with [REDACTED] and testified. [REDACTED] appeared on behalf of the Department of Human Services ("Department")

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits based on the failure to comply with the Jobs, Education, and Training ("JET") program?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was a FIP recipient.
2. On May 4, 2012, a Notice of Non-compliance was mailed to the Claimant instructing her to attend a May 10, 2012 triage.
3. On this same date, a Notice of Case Action was mailed to the Claimant informing her that her FIP benefits would terminate effective June 1, 2012.
4. The Claimant did not attend the triage and the Department determined that good cause did not exist for the failure to participate, as required, in the JET program.

5. This is the Claimant's second FIP non-compliance.
6. On May 17, 2012, the Department received the Claimant's written request for hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("RFT").

The Family Independence Program ("FIP") was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department, formerly known as the Family Independence Agency, administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996.

The Food Assistance Program ("FAP"), formerly known as the Food Stamp program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations ("CFR"). The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through R 400.3015.

The Medical Assistance ("MA") program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations ("CFR"). The Department of Human Services, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program ("AMP") is established by 42 USC 1315, and is administered by the Department of Human Services pursuant to MCL 400.10, *et seq.*

The State Disability Assistance ("SDA") program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services, formerly known as the Family Independence Agency, administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3151 through R 400.3180.

The Child Development and Care ("CDC") program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, Rules 400.5001 through R 400.5015.

The Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A. All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 228. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A. The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program ("JET") or other employment service provider. 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. BEM 233A. Failure to comply without good cause results in FIP closure. BEM 233A. The first non-compliance results in a 3 month FIP closure; the second occurrence results in FIP closure not less than six calendar months; and the third non-compliance results in a lifetime sanction. BEM 233A. The individual penalty counter begins April 1, 2007. BEM 233A.

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. BEM 233A. In processing a FIP closure, the Department is required to send the client a notice of non-compliance, DHS-2444, which must include the date(s) of the non-compliance or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the work participation program. BEM 233A.

The proper addressing and mailing of a letter creates a legal presumption that it was received. *Stacey v Sankovich*, 19 Mich App 688, 694 (1969).

In this case, the Claimant's employment ended. As a result, the Claimant was required to participate with the JET program. This was not done. On May 4, 2012, the Department sent a Notice of Non-compliance to the Claimant instructing her to attend the May 10th triage. This Notice was not returned as undeliverable by the US Postmaster. On this same date, a Notice of Case Action was mailed to the Claimant informing her that her FIP benefits would terminate effective June 1, 2012, based on the

failure to comply with the JET requirements. This Notice was not returned as undeliverable by the US Postmaster. The Claimant failed to call or attend the triage. At the triage, the Department determined that good cause did not exist for Claimant's termination from employment.

The Claimant testified that she did not receive the notices sent by the Department. As discussed in *Stacey*, properly addressing and mailing a notice/letter creates a legal presumption that it was received. *Id.* Here, the Department mailed two properly addressed notices to the Claimant of which neither was returned as undeliverable. Accordingly, the presumption is that they were received. Ultimately, the Department established it acted in accordance with Department policy when it terminated the Claimant's FIP case for failing to meet the requirements of the JET program without good cause. The Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department acted in accordance with policy when it terminated the Claimant's FIP benefits effective June 1, 2012.

Accordingly, it is ORDERED:

1. The Department's determination is AFFIRMED.
2. A 6-month FIP sanction is imposed from the date of closure based upon the second JET non-compliance in accordance with department policy.



Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan Director
Department of Human Services

Date Signed: July 9, 2012

Date Mailed: July 9, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CMM/cl

cc:

