

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

IN THE MATTER OF:



Reg. No.: 201265069
Issue No.: 1038, 5016
Case No.: [REDACTED]
Hearing Date: September 5, 2012
County: Wayne DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on September 5, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly did not process an approval of State Emergency Relief for assistance with energy services due to Claimant's failure to timely pay a copayment.

The second issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to Claimant's noncompliance with WPP participation.

FINDINGS OF FACT

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

1. On an unspecified date, Claimant applied for SER seeking assistance for payment of an energy bill.
2. On an unspecified date, DHS approved Claimant for an unspecified SER payment, subject to Claimant paying a \$219.60 copayment by 5/18/12 to the service provider.

3. On 5/24/12, Claimant paid \$220 to the energy service provider.
4. DHS did not process Claimant's SER approval due to Claimant's untimely copayment.
5. Claimant was an ongoing FIP benefit recipient.
6. Claimant was not an ongoing WPP participant.
7. On an unspecified date, DHS mailed Claimant a notice to attend a WPP orientation to be held on 5/7/12.
8. Claimant failed to attend the WPP orientation.
9. On 6/21/12, DHS mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage to be held on 6/26/12.
10. Claimant failed to attend the triage.
11. DHS subsequently determined that Claimant lacked good cause for her failure to participate with WPP.
12. On 6/26/12, DHS initiated termination of Claimant's FIP benefit eligibility effective 8/2012, due to Claimant's alleged noncompliance with WPP participation.
13. On 7/16/12, Claimant requested a hearing to dispute the FIP benefit termination and the failure by DHS to process the SER approval.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (10/2011), p.1. DHS is not to authorize a SER payment unless it will resolve the emergency. *Id.* In processing SER applications, DHS factors information such as income, assets and shortfall payments (i.e. payment history). The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. *Id.*, p. 3. If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, DHS is not to issue payment until the client provides proof that their payment has been made or will be made by another agency. *Id.* Verification of payment must be received in the local office

within the 30-day eligibility period or no SER payment will be made. *Id.* The client will then have to reapply. *Id.*

It was not disputed that DHS approved Claimant for an unspecified amount of an energy bill balance subject to a \$219.60 copayment by Claimant. Claimant contended that she timely made her copayment and that DHS failed to process the SER approval. DHS presented Claimant with an SER Decision Notice which verified a due date of 5/18/12 for Claimant's copayment to be made. DHS also verified that Claimant's copayment was made 5/24/12. It is found that Claimant's copayment was not timely made and that DHS properly did not process Claimant's SER approval because of Claimant's copayment tardiness.

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, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A (5/2012), p. 1. The DHS focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. *Id.* However, there are consequences for a client who refuses to participate, without good cause. *Id.*

Participation with WPP (aka JET or Work First) is an example of an employment related activity. A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.* Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. *Id.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause (see *Id.*, pp. 1-2):

- 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.

DHS contended that Claimant was noncompliant with WPP participation requirements by failing to attend a WPP orientation scheduled for 5/7/12. Claimant also failed to participate in WPP anytime thereafter. Claimant did not dispute that she failed to attend WPP. Claimant's failure to attend WPP on 5/17/12, or thereafter, is a sufficient basis to establish noncompliance.

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 (5/2012), p 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id.*, p. 4. A claim of good cause must be verified. *Id.*, p. 3.

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. *Id.* p. 7. In processing a FIP closure, DHS is required to send the client a notice of non-compliance (DHS-2444) which must include: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration *Id.* p. 8. In addition, a triage must be held within the negative action period. *Id.* If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id.*

Claimant contended that she failed to attend WPP because she never received a notice to attend. As a matter of procedure, Claimant contention goes more towards whether there was a basis for noncompliance rather than good cause. Claimant also denied receiving a notice scheduling her for triage.

DHS presented Claimant with documents verifying that the notices both contained Claimant's verified mailing address. DHS also obtained correspondence history from their database which verified that the documents were centrally printed (i.e. computer generated). The fact the documents were centrally printed makes it more likely that the

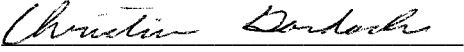
documents were mailed by DHS because the automated system removes the element of human error. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). DHS established a presumption of proper mailing of the WPP orientation and triage meeting notice.

Claimant presented evidence to rebut the DHS presumption. Claimant presented DHS with two envelopes that she received from DHS. Both envelopes had a handwritten mailing address to Claimant's old address. The envelopes are supportive of a finding that DHS may have failed to mail Claimant a notice to attend WPP and to attend a triage. Claimant's argument is less persuasive when considering that the mislabeled envelopes were handwritten rather than centrally printed. As noted above, central print removes the element of human error and the centrally printed documents were verified as having Claimant's correct mailing address.

Based on the presented evidence, it is found that DHS established that the correspondence concerning WPP orientation was properly mailed to Claimant. Accordingly, the DHS finding of noncompliance by Claimant on her failure to attend WPP was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility, effective 8/2012, based on noncompliance with WPP participation. It is further found that DHS failed to process payment for Claimant's SER application requesting energy assistance was proper based on Claimant's failure to timely make a copayment. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 12, 2012

Date Mailed: September 12, 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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

