

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201233832
Issue No. 1038
Case No. [REDACTED]
Hearing Date: March 15, 2012
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to MCL 400.9 and MCL 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was held on March 15, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED] a Michigan Works Agency (MWA).

ISSUE

Whether the Department properly closed Claimant's case for Family Independence Program (FIP) benefits based on Claimant's failure to participate in employment-related activities without good cause.

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FIP benefits and was required to participate in employment-related activities.
2. On December 13, 2011, the Department sent Claimant a Notice of Noncompliance scheduling a triage on December 20, 2011.
3. Claimant did not participate in the triage.

4. The Department held the triage and found that Claimant had failed to comply with employment-related activities without good cause.
5. On February 3, 2012, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective March 1, 2012, based on a failure to participate in employment-related activities without good cause.
6. The Department imposed a first sanction for Claimant's failure to comply with employment-related obligations.
7. On February 10, 2012, Claimant filed a request for a hearing disputing the Department's action.

CONCLUSIONS OF LAW

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

At the hearing, Claimant clarified that she had requested the hearing only with respect to the closure of her FIP case and not with respect to her Food Assistance Program (FAP) benefits. The hearing proceeded with respect to the Department's closure of Claimant's FIP case effective March 1, 2012.

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.

In order to increase their employability and obtain employment, work eligible individuals (WEI) seeking FIP are required to participate in the Jobs, Education and Training (JET) Program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A; BEM 233A. Failing or refusing to attend or participate in a JET program or other employment service provider without good cause constitutes a noncompliance with employment or self-sufficiency related activities. BEM 233A.

JET participants will not be terminated from a JET program without the Department first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. Good cause is a valid reason for noncompliance which is beyond the control of the noncompliant person. BEM 233A. Good cause must be based on the

best information available during the triage and prior to the negative action date. BEM 233A. Good cause may be verified by information already on file with the Department or the work participation program. BEM 233A. Good cause **must** be considered even if the client does not attend. BEM 233A.

In this case, the Department testified that it sent Claimant a Notice of Noncompliance on December 13, 2011, advising her that she was in noncompliance with her work-related activities and scheduling a triage on December 20, 2011. Claimant did not attend the triage. The Department credibly testified that it held the triage and found that Claimant had failed to participate in required activities and had no good cause for her noncompliance. The Department subsequently sent Claimant a Notice of Case Action closing her FIP case effective March 1, 2012, and imposing a first sanction prohibiting her from reapplying for FIP benefits for three months.

At the hearing, Claimant denied receiving the Notice of Noncompliance. However, she verified that the copy of the notice that the Department presented at the hearing was properly addressed to her. Proper mailing and addressing of a notice creates a presumption of receipt that may be rebutted by the evidence. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 276; 241 NW2d 71 (1976). Claimant failed to provide any credible, material and substantial evidence to rebut the presumption of receipt. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case based on its finding at the properly scheduled and held triage that Claimant had failed to participate in required activities and had failed to show good cause for her noncompliance.

It should be noted that Claimant left the hearing before it had concluded. However, the evidence presented showed that Claimant had advised her MWA worker on August 26, 2011, that she had procured employment. The MWA worker was unable to verify the employment with the employer and asked Claimant to provide copies of her paystubs to verify employment. Claimant failed to provide this information to the MWA worker. She admitted at the hearing that she had not provided the paystubs. Therefore, Claimant's testimony established her noncompliance. She failed to provide any evidence of good cause for her noncompliance.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly closed Claimant's FIP case. improperly closed Claimant's FIP case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

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did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated above and on the record.



Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2012

Date Mailed: March 20, 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

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cc:

