

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2012-55897
Issue No.: 1013
Case No.: [REDACTED]
Hearing Date: July 2, 2012
Wayne County DHS (15)

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 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 effective July 1, 2012?

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. In January 2012, the Claimant reported a change of address.
3. On March 22, 2012, the Department sent a Work Participation Program Appointment Notice ("Notice") to the Claimant instructing her to attend the mandatory work participation program on April 9, 2012. (Exhibit 1)
4. The Notice was not sent to the Claimant's current address; therefore, the Claimant did not receive it.

5. On May 15, 2012, the Department sent a Notice of Non-compliance to the Claimant instructing her to attend an April 13, 2012 triage. (Exhibit 2)
6. The Notice of Non-compliance was not mailed to the correct address; therefore, the Claimant was unaware of the triage.
7. On April 13th, because the Claimant did not appear for the triage, the Department determined that good cause did not exist.
8. On May 23, 2012, a Notice of Case Action was sent to the Claimant informing her that her FIP benefits would terminate effective July 1, 2012 based on the JET non-compliance.
9. On May 29, 2012, the Department received the Claimant's timely written request for hearing. (Exhibit 3)

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 occurrence results in a 3-month closure while the second occurrence results in a 6 month sanction. BEM 233A. The third occurrence results in a lifetime sanction. 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. 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; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A.

In this case, the Claimant, who was previously homeless, reported a change of address to the Department in, or around, January 2012. The Claimant attempted to participate in the work program/activity however; she was not in the system and was told to report to the local office. The Claimant brought in a copy of her lease, driver’s license, and utilities bill, as requested. Subsequently, the Department sent the Claimant a Notice to report to the JET program. This notice was sent to the wrong address which ultimately resulted in a Notice of Non-compliance being generated. This notice was also mailed to the wrong address. After the triage date had expired, the Claimant received the Notice of Non-compliance when it was forwarded by the U.S. Postmaster. The Claimant contacted the Department stating that she was attempting to participate with the JET program but that her name was still not in the system.

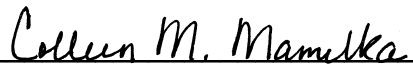
The Department pended the Claimant's case for closure effective July 1, 2012. Despite receipt of a timely hearing request, which should have deleted the negative action, the Claimant's FIP benefits were terminated as scheduled. During the hearing, the Claimant's JET participation was noted as was the fact that the Notices were sent to the incorrect address. In light of the foregoing, it is found that the Department's termination of FIP benefits is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds the Department failed to establish it acted in accordance with department policy when it terminated the Claimant's FIP benefits effective July 1, 2012.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department's FIP determination is REVERSED.
2. The Department shall reinstate the Claimant's FIP benefits effective July 1, 2012, in accordance with department policy.
3. The 3-month FIP sanction is not imposed.
4. The Department shall supplement for lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified 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:

