

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

IN THE MATTER OF:

[REDACTED]

Reg No.: 2013-13111
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 17, 2013
Wayne County DHS (18)

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 Thursday, January 17, 2013. The Claimant appeared, along with Delores Green, and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED], [REDACTED]
[REDACTED]

ISSUE

Whether the Department properly terminated the Claimant's cash assistance ("FIP") benefits effective December 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 October 2012, the Claimant submitted a doctor's note to the Department providing that she would be medically able to return to work/school on November 1, 2012. (Exhibit 1)
3. Pursuant to the doctor's note, on October 8, 2012, [REDACTED] sent a Return to JET appointment Notice to the Claimant instructing her to return to JET on November 1, 2012 at 8:30a.m. (Exhibit 2)

4. The Claimant failed to call or appear for the November 1, 2012 JET appointment. (Exhibit 3)
5. On November 2, 2012, the Department sent a Notice of Non-Compliance to the Claimant instructing her to attend a triage appointment on November 8, 2012. (Exhibit 5)
6. At triage, the Claimant presented job search logs for the period from November 5 through November 9, 2012. (Claimant Exhibit A)
7. During triage, the Department found good cause provided the Claimant return to the JET program on November 13th and that she submit medical verification that would excuse her for missing the November 1st appointment. (Exhibit 4)
8. The Claimant reported to JET on November 13th as agreed but failed to provide medical verification covering the November 1st date. (Exhibit 4).
9. On November 13, 2012, the Department sent a Notice of Case Action to the Claimant informing her that her FIP benefits would close effective December 1, 2012 based on the failure to comply with the JET requirements.
10. On November 21, 2012, the Department received the Claimant's timely written request for hearing. (Exhibit 6)
11. Despite the timely hearing request, the Claimant's FIP benefits terminated December 1, 2012.

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 Department requires clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (October 2012), p. 1. All Work Eligible Individuals ("WEI") are required to participate in the development of a Family Self-Sufficiency Plan ("FSSP") unless good cause exists. BEM 233A, p. 1; BEM 228 (December 2011), p. 3. As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A (December 2011), p. 1. 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, pp. 4, 5. 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, pp. 3, 4.

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, p. 7. 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, pp. 8, 9.

A timely hearing request is the date before the negative action effective date. BAM 220, (October 2012) p. 9. Receipt of a timely hearing request can result in continued or restored benefits. BAM 220, p. 9.

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, in Claimant submitted documentation showing that she was medically unable to participate in work-related (or school) activities from October 4th through October 31, 2012. In response, the Department deferred JET participation, instructing her to return to JET on November 1, 2012 at 8:30a.m. The November 1st date was the date the Claimant provided to the Department from her physician as the return to work/school date. During the hearing, the Claimant asserted that she did not receive the JET appointment notice. As discussed above, the proper addressing and mailing of a letter creates a legal presumption that it was received. *Stacey* at 694. Here, the notice was properly addressed and not returned as undeliverable.

The Claimant failed to call or appear for her JET appointment on November 1st resulting in a Notice of Non-compliance being sent to the Claimant instructing her to attend a November 8th triage appointment. At triage, the Department agreed to grant good cause for the failure to appear for the November 1st appointment provided the Claimant was able to submit medical documentation establishing that she was physically unable to attend the appointment. The Claimant was told to return to the JET program on November 13th and to provide the medical verification at that time.

The Claimant returned to the JET program on November 13th but failed to bring in documentation excusing her from participation on November 1st. As such, it is found that good cause was not established and the Department’s actions are AFFIRMED. Although the Claimant’s hearing request was timely, which should have resulted in the deletion of the negative action, this error is harmless in that the good cause was not established for the JET non-compliance.

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 acted in accordance with Department policy when it found good cause was not established for the Claimant's JET non-compliance.

Accordingly, it is ORDERED:

The Department's determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director

Date Signed: January 23, 2013

Date Mailed: January 23, 2013

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.

2013-313111/CMM

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/tm

cc:

