

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-24206
Issue No.: 1005
Case No.: [REDACTED]
Hearing Date: February 19, 2013
County: Macomb-12 County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 February 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close and sanction the Claimant's Family Independence Program (FIP) case?

FINDINGS OF FACT

I find as material fact, based on the competent, material, and substantial evidence on the whole record:

1. As of December 1, 2012, the Claimant was receiving FIP benefits.
2. On December 1, 2012, the Department sent the Claimant a JET orientation notice. The notice indicated the Claimant was to attend a JET orientation on December 17, 2012.
3. On December 17, 2012, the Claimant failed to attend the assigned orientation.
4. On December 28, 2012, the Department sent the Claimant a notice of noncompliance and a notice of case action. The notice of noncompliance indicated the Claimant was to attend a triage on January 3, 2013. The notice of case action indicated the Claimant's FIP case was being closed effective February 1, 2013.

5. On January 3, 2013, the Department conducted a triage in the absence of the Claimant. The Department determined the Claimant did not have good cause for not attending the assigned JET orientation on December 17, 2012.
6. On January 10, 2013, the Claimant requested a hearing to protest the FIP closure.

CONCLUSIONS OF LAW

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

The 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 1999 AC, R 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

In this case, the Department mailed the Claimant notices regarding his FIP benefits. The notices were timely sent to the Claimant's last known address on record.

Because the Claimant alleges to have not received some of the notices, this issue concerns the application of "the mailbox rule."

Under the mailbox rule "a letter mailed in the due course of business is received." *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Such evidence is admissible without further evidence from the records custodian that a particular letter was actually mailed. *Good supra* at 275. "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. The challenging party may rebut the presumption that the letter was received by presenting evidence to the contrary. See *id.*

The Department has produced sufficient evidence of its business custom with respect to addressing and mailing of the notices in question. Under the mailbox rule, the mere execution of the DHS forms in the usual course of business rebuttably presumes subsequent receipt by the addressee. *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The Department has produced sufficient evidence of its business custom with respect to the mailing of the DHS notices allowing it to rely on this presumption. Claimant, on the other hand, argues that she untimely received some of the notices. Despite making this argument, Claimant has not come forward with sufficient evidence to rebut the presumption.

In addition, the Claimant indicated she had rescheduled the JET orientation but did not receive the alleged appointment letter until after the appointment date of January 3, 2013. The Department has no record of the JET orientation being

rescheduled or of any notice indicating the appointment was rescheduled. Additionally, the Claimant has not provided any documentation to corroborate this claim.

Furthermore, the Claimant indicated she did not attend the assigned JET orientation due to a conflicting interview. During the hearing, the Claimant failed to provide any documentation to support the statements about the alleged conflict.

Therefore, based on material, competent and substantial evidence, I find the Department properly closed and sanctioned the Claimant's FIP case as the Claimant failed to appear for the orientation and the Claimant did not have good cause for not appearing.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Department did act properly in this matter.

Accordingly, the Department's FIP decision is **AFFIRMED**.

/s/
Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 20, 2013

Date Mailed: February 20, 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.

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

CAA/las

cc:

