

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201324271  
Issue No: 1038; 6019  
Case No: [REDACTED]  
Hearing Date: February 19, 2013  
Kent County DHS

**ADMINISTRATIVE LAW JUDGE:** Suzanne L. Morris

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on February 19, 2013. The claimant appeared and provided testimony, along with representative [REDACTED]. The department witnesses were [REDACTED].

**ISSUES**

1. Did the department properly deny the claimant's Family Independence Program (FIP) application for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements?
2. Did the department properly deny the claimant's Child Development and Care (CDC) application for failure to provide the required verifications?

**FINDINGS OF FACT**

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

1. The claimant applied for FIP and CDC on October 8, 2012.
2. The claimant was mailed a Verification Checklist (DHS-3503) on October 22, 2012, requiring her to complete and return a Child Care Provider Verification (DHS-4025) by November 1, 2012. The claimant did not return the DHS-4025 to the department.
3. On October 22, 2012, the claimant was also mailed a Work Participation Program Appointment Notice (DHS-4785) that required her to attend

WF/JET orientation on November 5, 2012. The claimant did not attend WF/JET.

4. On December 28, 2012, the claimant was mailed a Notice of Case Action (DHS-1605) that indicated her CDC and FIP application was denied for failure to return the required verifications and failure to attend WF/JET.
5. The claimant submitted a hearing request on January 8, 2013.

### **CONCLUSIONS OF LAW**

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Tables (RFT).

The Child Development and Care 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 of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Tables (RFT).

Department policy indicates:

#### **DEPARTMENT PHILOSOPHY**

##### **FIP**

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. Our focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. However, there are consequences for a client who refuses to participate, without good cause.

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such

compliance have been identified and removed. The goal is to bring the client into compliance.

Noncompliance may be an indicator of possible disabilities. Consider further exploration of any barriers.

## **DEPARTMENT POLICY**

### **FIP**

A Work Eligible Individual (WEI), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure. For the Refugee Assistance Program (RAP) penalty policy, see BEM 233C. BEM 233A, p. 1.

### **NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES**

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:

- . Failing or refusing to:
  - .. Appear and participate with the Jobs, Education and Training (JET) Program or other employment service provider.
  - .. Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the FSSP process.
  - .. Develop a Family Self-Sufficiency Plan (FSSP) or a Personal Responsibility Plan and Family Contract (PRPFC).
  - .. Comply with activities assigned to on the Family Self-Sufficiency Plan (FSSP) or PRPFC.

- .. Appear for a scheduled appointment or meeting related to assigned activities.
  - .. Provide legitimate documentation of work participation.
  - .. Participate in employment and/or self-sufficiency-related activities.
  - .. 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. BEM 233A, pp. 1-2.

Noncompliance by a WEI while the application is pending results in **group** ineligibility. BEM 233A. A good cause determination is not required for applicants who are noncompliant prior to FIP case opening. BEM 233A.

Noncompliance is defined by department policy as failing or refusing to do a number of activities, such as attending and participating with WF/JET, completing the FAST survey, completing job applications, participating in employment or self-sufficiency-related activities, providing legitimate documentation of work participation, etc. BEM 233A. This Administrative Law Judge finds that the claimant was noncompliant with WF/JET program requirements by not attending WF/JET on November 5, 2012, as assigned.

Department policy does not require the department to conduct a triage or make a good cause determination when a FIP group member is noncompliant with WF/JET participation requirements while the FIP application is pending. BEM 233A. Failure by a client to participate to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. Bridges automatically denies FIP benefits

for noncompliance while the application is pending. BEM 229. In this case, the claimant's FIP application was still pending when the noncompliance occurred. Thus, the department properly closed the claimant's FIP case.

## **CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES**

### **Responsibility to Cooperate**

#### **All Programs**

**Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. BAM 105.**

### **Refusal to Cooperate Penalties**

#### **All Programs**

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

### **Verifications**

#### **All Programs**

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM 105.

### **Assisting the Client**

#### **All Programs**

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM 105.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- Required by policy. BEM items specify which factors and under what circumstances verification is required.
- Required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP.
- Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM 130.

## **Obtaining Verification**

### **All Programs**

Tell the client what verification is required, how to obtain it, and the due date; see **Timeliness of Verifications** in this item. Use the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130.

The client must obtain required verification, but you must assist if they need and request help.

If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment. BAM 130.

### **Timeliness of Verifications**

#### **FIP, SDA, CDC, FAP**

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. BAM 130.

**Exception:** For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once.

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130.

**Note:** For FAP only, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, you must assist them with the verifications but do not grant an extension. Explain to the client they will not be given an extension and their case will be denied once the VCL due date is passed. Also, explain their eligibility will be determined based on their compliance date if they return required verifications. Re-register the application if the client complies within 60 days of the application date; see BAM 115, Subsequent Processing. BAM 130.

The claimant presented the same argument against the denial of both programs. The claimant stated that she did not receive the notice to attend WF/JET, the Verification Checklist or the Child Development and Care Provider Verification. The claimant stated that this was the reason she did not attend WF/JET and the reason she was unable to return the completed verification. The department representatives testified that each of these documents was mailed to the claimant's correct address. 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). The claimant testified that she did not have any trouble with any other mailings. Further, the claimant admitted she did receive the Notice of Case Action that was mailed to her on December 28, 2012.

The claimant and her representative argued that there was no proof that the department actually mailed the documents in question. However, the department representatives testified that the mail process is that correspondence is generated through "central print" which is not controlled through the case worker or anyone at the local office, but automatically generated and that a Bridges screen will show what date and how the information was generated/mailed. This Administrative Law Judge requested a copy of this screen (the "View History Correspondence" screen) be provided to the claimant and

to myself). This clearly shows that on October 22, 2012, central print mailed to the client a Jobs, Education and Training Appointment Notice (DHS-4785); a Verification Checklist (DHS-3503); and a Child Care Provider Verification (DHS-4025). Thus, this Administrative Law Judge finds that the preponderance of the evidence does show that the claimant was properly mailed the forms/verifications and did not return the verifications as required and did not attend WF/JET as required.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department properly denied the claimant's Family Independence Program (FIP) application for noncompliance with Work First/Jobs, Education and Training (WF/JET) requirements.
2. The department properly denied the claimant's Child Development and Care (CDC) application for failure to provide the required verifications.

Accordingly, the department's determination is **UPHELD**. SO ORDERED.

/s/\_\_\_\_\_

Suzanne L. Morris  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: February 25, 2013

Date Mailed: February 25, 2013

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

SLM/cr

cc:

