

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

**IN THE MATTER OF:**



Reg. No.: 201333096  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: April 8, 2013  
County: Wayne County (#43)

**ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE**

**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 conducted from Detroit, Michigan on Monday April 8, 2013. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (FIM).

**ISSUE**

Whether the Department properly closed the Claimant's cash assistance (FIP) for failure to participate in employment related activities?

**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, who is a mandatory participant with the Work Participation Program.
2. On November 26, 2012, the Department sent the Claimant Notice of Work Participation Appointment informing the Claimant to attend the program on December 12, 2012. (Exhibit 3)
3. On January 4, 2013, the Department sent Notice of Non-Compliance to the Claimant as a result of her failure to attend the program, instructing her to attend triage on January 10, 2013, to discuss reasons for non-compliance.(Exhibit 4)

4. On the same date, the Department sent Notice of Case Action informing the Claimant that her FIP case was pended to close effective February 1, 2013, for non-cooperation with employment services.
5. The Claimant did not attend triage, as a result the Department made a no good cause determination; and Claimant's FIP case closed as intended.
6. The Department also imposed a three month sanction for a first non-compliance with employment related activities. (Exhibit 1)
7. On February 28, 2013, the Department received the Claimant's written hearing request protesting the action.

### **CONCLUSIONS OF LAW**

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

The Family Independence Program (FIP) is temporary cash assistance to support a family's movement to self sufficiency. It 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.

The Department requires recipients to participate in the Work Participation Program or other employment and self-sufficiency related activities and to accept employment when offered. BEM 233A (January 2013), p. 1. All Work Eligible Individuals ("WEI"), and non-WEIs, are required to work or engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A, p. 2. Failure to participate in employment or self-sufficiency-related activities without good cause is penalized. BEM 233A, p. 7. Penalties include a delay in eligibility at application, ineligibility, or case closure for a minimum of 3 months for the first episode of non-compliance, 6 months for the second occurrence, and a lifetime closure for the third episode of non-compliance. BEM 233A, p. 6. Good cause is a valid reason for non-compliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the non-compliant person. BEM 233A, p. 3.

Work program participants will not be terminated from the Work Participation Program without first scheduling a triage meeting with the client to jointly discuss non-compliance and good cause. BEM 233A. Clients can either attend the triage or participate in a conference call if physical attendance is not possible. BEM 233A. Clients must comply with triage requirements and provide good cause verification within the negative action

period. BEM 233A. Good cause is based on the best information available during the triage *and* prior to the negative action date. 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 or the date the client was considered to be non-compliant; the reason the client was determined to be non-compliant; and the penalty duration. BEM 233A. If good cause is established within the negative action period, benefits are reinstated and the client is sent back to the Work Participation Program. BEM 233A.

In this case, the Claimant was required to participate in the Work Participation Program. The Notice of Non-compliance mailed to the Claimant instructing her to attend the triage on January 10, 2013 for non-compliance was not returned as undeliverable by the US postal service. Claimant did not call or attend the triage. As a result, the Department determined that good cause did not exist for Claimant's failure to participate in employment related activities and allowed the negative action to remain. Claimant testified that she could not recall receiving either notice; and further stated that she was not sure if she had to attend the work program because she is in school. Even if an individual attends school, the individual is required to participate with the Work Participation Program to coordinate their school attendance. Further, 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). Here, there was no substantial evidence on this record that rebuts the presumption that the notices sent to Claimant's proper address were received.

Department policy provides that clients must comply with triage requirements and provide good cause verification within the negative action period. Here, the Claimant did not comply with triage, nor provide verification of good cause prior to the closure of her case, as required. While Claimant testified that she made several attempts to reach her Department worker by telephone, her actions were not sufficient to resolve the matter prior to case closure, or before missing the required appointments. She was clearly put on notice of the importance of the triage and the need to either call or show at the office to discuss the matter. Therefore, the Department established it acted in accordance with policy when it terminated Claimant's FIP benefits for non-compliance with employment related activities and imposed a three month sanction for a first non-compliance occurrence.

Accordingly, the Department's action is upheld.

### **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 acted properly when it closed Claimant's FIP case effective February 1, 2013 for non-compliance with employment related activity.

Accordingly, the Department's FIP determination is hereby, **AFFIRMED**.

*M. Howie*

**MICHELLE HOWIE**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 4/10/2013

Date Mailed: 4/10/2013

**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

MH/hw

cc:

