

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

IN THE MATTER OF:



Reg. No.: 201333103
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 10, 2013
County: Wayne County (31)

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 Wednesday April 10, 2013. The Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly terminated Claimant's cash assistance (FIP) benefits and reduced the Food Assistance Program (FAP) benefits for non-compliance with 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 an ongoing FIP and FAP recipient who is a mandatory participant in the work participation program.
2. On December 14, 2012, the Department sent Notice of Non-compliance to Claimant, instructing her to attend triage on December 26, 2012 to discuss reasons for non-compliance. (Exhibit 1)

3. On this same date, a Notice of Case Action was mailed informing Claimant that her FIP benefits would terminate and FAP benefits reduced, effective January 1, 2013, for failure to participate in employment related activities. (Exhibit 2)
4. The Claimant did not attend triage nor call to reschedule, and as a result, the Department made a no good cause determination for non-compliance.
5. The Department also imposed a three month sanction for a first occurrence of non-compliance with employment related activities.
6. On December 26, 2012, the Department received Claimant's written hearing request.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) 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, R 400.3001 through R 400.3015.

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 (December 2011), 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. Non-compliance without good cause with employment requirements for FIP may also affect FAP if both programs were active on the date of FIP non-compliance. BEM 233B (November 2012), p. 1. FIP 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. An individual is disqualified from a FAP group for non-compliance when the client had active FIP and FAP benefits on the date of the FIP non-compliance. BEM 233B, p. 2. The individual's removal from the FAP group results in reduction of FAP benefit amount. 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, Claimant was required to participate in the work participation program when she was not working for several weeks. This was not done. The notice of non-compliance mailed to Claimant on December 14, 2012, instructing her to attend a triage on December 26, 2012 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 non-compliance with employment related activities. Claimant testified that she returned to work at the end of November 2012 and began providing the Department worker, rather than the work program worker, with her paystubs. She further asserts that she did not receive the notice of non-compliance scheduling the triage because she does not live at the address she provided to the Department. 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). Notably, Claimant verified the same address as her current mailing address on the record. Accordingly, the presumption is that the letter was 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 attend triage, nor provide verification of good cause prior to case closure as required. While Claimant testified that she made several attempts to reach the Department worker by telephone, her actions were not sufficient to resolve the matter prior to case closure or before missing the required triage meeting. Based on the evidence on record, the Department established it acted in accordance with policy when it terminated Claimant's FIP benefits and reduced the FAP benefits for non-compliance

with employment related activities and imposed a three month sanction for a first occurrence of non-compliance.

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 in accordance with policy when it terminated the Claimant's FIP benefits and reduced the FAP benefits effective January 1, 2013.

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

M. Howie
Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/18/2013

Date Mailed: 4/18/2013

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.

201333103/MH

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:

