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

IN THE MATTER OF:

███████████████

Reg. No.: ████████
Issue No.: 1038
Case No.: ████████
Hearing Date: February 21, 2013
County: Genesee-06

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 21, 2013. Claimant appeared and testified.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application for failure to participate in employment and/or self-sufficiency 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)   On October 10, 2012, Claimant submitted an application for Family Independence Program (FIP) benefits.

(2)   On November 5, 2012, both Claimant and her husband were sent a Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The notice stated that they both were required to attend the Work First/Jobs Education and Training Program on November 19, 2012.

(3)   On November 19, 2012, neither Claimant nor her husband attended JET.

(4)   On November 29, 2012, Claimant was sent Notice of Case Action (DHS-1605) stating that the Family Independence Program (FIP) application was denied.

(5)   On January 22, 2013, Claimant submitted a request for hearing.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

> **BEM 233A FAILURE TO MEET EMPLOYMENT AND/OR SELF-SUFFICIENCY RELATED REQUIREMENTS: FIP**
>
> **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) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), see BEM 228, who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. Depending on the case situation, penalties include the following:
> • Delay in eligibility at application.
> • Ineligibility (denial or termination of FIP with no minimum penalty period).
> • Case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance.

See BEM 233B for the Food Assistance Program (FAP) policy when the FIP penalty is closure.

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.

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:
Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.
• 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).
  •• Comply with activities assigned on the FSSP.
  •• Provide legitimate documentation of work participation.
  •• Appear for a scheduled appointment or meeting related to assigned activities.
  •• Participate in employment and/or self-sufficiency-related activities.
  •• Participate in required activity.
  •• 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.

NONCOMPLIANCE PENALTIES AT APPLICATION
Noncompliance by a WEI while the application is pending results in group ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending, must have benefits delayed; see Benefit Delay

for Refusing Employment in this item.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening.
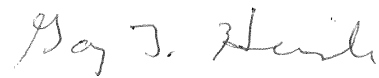
Claimant does not dispute that neither she nor her husband attended JET on November 19, 2012. Claimant asserts she did not receive the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). The proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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).

In this case the evidence shows that the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) was sent to Claimant's address of record with the Department. Claimant testified that she has received other correspondence from the Department before and after the date the Work First/Jobs Education and Training Appointment Notice (DHS-4785 form) was sent. No evidence was presented sufficient to rebut the presumption of receipt. The evidence does not show a failure of notice to Claimant of the requirement to attend JET on November 19, 2012.

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 properly denied Claimant's October 10, 2012 application for Family Independence Program (FIP) benefits.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.

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Gary F. Heisler
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 22, 2013

Date Mailed: February 22, 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.

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.

GFH/las

cc: