

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-59376
Issue No.: 1038, 5034
Case No.: [REDACTED]
Hearing Date: August 14, 2013
County: Kent 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 August 14, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED]. Interpreting the hearing was [REDACTED] (Arabic).

ISSUE

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) and Food Assistance Program (FAP) benefits for noncompliance with PATH?

FINDINGS OF FACT

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

1. On May 1, 2013, the Claimant began participating in the PATH program.
2. On May 1, 2013, the Claimant began submitting activity logs.
3. On May 24, 2013, the Claimant submitted his activity log. The log was short the required number of hours.
4. On June 4, 2013, a PATH worker visited the Claimant. During the visit, the Claimant told the PATH worker that he was going to stop submitting activity logs and focus on his "English" skills.
5. On June 5, 2013, PATH sent the Claimant a noncompliance letter. The letter indicated a re-engagement meeting on June 13, 2013.

6. On June 13, 2013, the Claimant attended the re-engagement meeting. During the meeting, the Claimant refused to sign the re-engagement letter. The Claimant was then informed about the triage process.
7. On June 13, 2013, the Department sent the Claimant a notice of case action and notice of noncompliance. The notice of case action indicated the Claimant's FIP and FAP program benefits were being affected due to noncompliance with the PA TH program. The notice of noncompliance indicated a triage date of June 19, 2013.
8. On June 19, 2013, a triage took place in the absence of the Claimant. The Department determined the Claimant lacked a good cause reason for the noncompliance and implemented case actions affected the FAP and FIP benefits the Claimant was receiving.
9. On July 18, 2013, the Claimant requested a hearing.

CONCLUSIONS OF LAW

The 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 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 Manual (PRM).

The 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 1999 AC, R 400.3001 through Rule 400.3015.

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.

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.

- As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities.

Good cause is a valid reason for noncompliance with employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant person. A claim of good cause must be verified and documented for member adds and recipients. Document the good cause determination in Bridges and the FSSP under the "Participation and Compliance" tab.

The penalty for noncompliance without good cause is FIP closure. Effective April 1, 2007, the following minimum penalties apply:

- For the first occurrence on the FIP case, close the FIP for 3 calendar months unless the client is excused from the noncompliance as noted in "First Case Noncompliance Without Loss of Benefits" below.
- For the second occurrence on the FIP case, close the FIP for 3 calendar months.
- For the third and subsequent occurrence on the FIP case, close the FIP for 12 calendar months.
- The penalty counter also begins April 1, 2007 regardless of the previous number of noncompliance penalties.

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

Under the mailbox rule "a letter mailed in the due course of business is received."¹ Such evidence is admissible without further evidence from the records custodian that a particular letter was actually mailed.² "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."³ The challenging party may rebut the presumption that the letter was received by presenting evidence to the contrary.⁴

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.⁵ 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. The Claimant, on the other hand, has not come forward with sufficient evidence to rebut the presumption.

¹ *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

² *Good supra* at 275.

³ *Id* at 276.

⁴ See *id*.

⁵ *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Determine good cause based on the best information available during the triage and prior to the negative action date. Good cause may be verified by information already on file with DHS or MWA.

If the client does NOT provide a good cause reason within the negative action period, determine good cause based on the best information available. If no good cause exists, allow the case to close. If good cause is determined to exist, delete the negative action. BEM 233A, pp. 10-11.

Testimony and other evidence must be weighed and considered according to its reasonableness.⁶ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.⁷ In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter.⁸

I have carefully considered and weighed the testimony and other evidence in the record and find the Claimant did not present any evidence of any alleged medical condition prior to the negative action date of July 1, 2013. And therefore find, the Department used the best information available to them in determining whether or not the Claimant had good cause. As a result, I find the Department properly determined the Claimant did not have good cause for failing to turn in the required activity logs.

Additionally, I find it interesting that the Claimant agreed that he stopped turning in the logs to focus on his English skills but then later attempts to use a medical condition as a reason why he had to stop participating.

Based upon these findings, I find the Department acted accordingly, in closing and sanctioning the Claimant's FAP and FIP cases.

Accordingly, I **AFFIRM** the Department's actions in this matter.

⁶ *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007).

⁷ *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

⁸ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department properly closed and sanctioned the Claimant's FIP benefits for noncompliance with PATH requirements.

Accordingly, the Department's actions are **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 15, 2013

Date Mailed: August 15, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

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The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAA/las

cc:

