

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201337326
Issue No.: 1038, 3029
Case No.: [REDACTED]
Hearing Date: April 25, 2013
County: Macomb 20

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 upon claimant's request for a hearing. After due notice, a hearing was held on April 25, 2013. Claimant appeared and testified. Claimant's speaks English competently but an Arabic translator also participated in the hearing.

ISSUE

Did the Department of Human Services properly sanction Claimant's Refugee Cash Assistance (RCA) on May 1, 2013 for failure to participate in employment and/or self-sufficiency related activities?

Did the Department of Human Services properly sanction Claimant's Food Assistance Program (FAP) on May 1, 2013 for failure to participate in employment and/or self-sufficiency related activities?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Refugee Cash Assistance (RCA) and Food Assistance Program (FAP) benefits.
- (2) On December 4, 2012, both Claimant and his spouse, Noora Yousif, were sent a separate Work First/Jobs Education and Training Appointment Notice (DHS-4785 form). Both were required to attend the [REDACTED] [REDACTED] (RC) [REDACTED] [REDACTED] of Michigan by December 24, 2012.

- (3) On March 19, 2013, neither Claimant nor [REDACTED] had attended [REDACTED]. Claimant was sent a Notice of Non-Compliance (DHS-2444) and a Notice of Case Action (DHS-1605). The Notice of Non-Compliance (DHS-2444) scheduled a triage meeting for March 28, 2013.
- (4) On March 28, 2013, both Claimant and [REDACTED] participated in the triage meeting. Claimant asserted they did not receive either of the Work First/Jobs Education and Training Appointment Notices (DHS-4785 form). Because the correspondence had not been returned, the Department determined there was no good cause for the failure to participate in employment and/or self-sufficiency related activities.
- (5) On March 28, 2013, later in the day, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Refugee Cash Assistance (RCA) was established in accordance with 45 CFR 400.82. The Department of Human Services (DHS or department) administers the RCA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

There is no dispute that neither Claimant nor [REDACTED] attended [REDACTED] by December 24, 2012. Claimant asserts there was a failure of notice because they never received either of the Work First/Jobs Education and Training Appointment Notices (DHS-4785 form).

Department of Human Services Bridges Eligibility Manual (BEM) 233C FAILURE TO MEET EMPLOYMENT REQUIREMENTS: RCA (2012) states:

Good cause is a valid reason for failing to participate in employment and/or self-sufficiency-related activities that are based on factors that are beyond the control of the noncompliant MP. A claim of good cause must be verified and documented for applicants, recipients and member adds.

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). During the hearing Claimant testified that: he received all the other correspondence from the Department; the apartment complex mailboxes where he lives are inside and each box is locked; the postman opens the back of all the boxes and places mail into the separate and individual boxes; he regularly gets mail in his box for others in the complex; and when a residence gets incorrect mail the normal practice is to give it to the complex manager.

The evidence submitted is insufficient to rebut the presumption of receipt. No good cause is found for the failure to participate in employment and/or self-sufficiency related activities. Sanction of Claimant's Refugee Cash Assistance (RCA) is proper in accordance with BEM 233C. Sanction of Claimant's Food Assistance Program (FAP) is proper in accordance with BEM 233C and BEM 233B.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly sanctioned Claimant's Refugee Cash Assistance (RCA) and Food Assistance Program (FAP) on May 1, 2013 for failure to participate in employment and/or self-sufficiency related activities.

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

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 4/29/13

Date Mailed: 4/30/13

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

GFH/tb

cc:

