

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014952
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: December 02, 2014
County: KENT-DISTRICT 1

ADMINISTRATIVE LAW JUDGE: Susanne Harris

HEARING DECISION

Following the Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 2, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED] and Assistance Payments Supervisor, [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP)?

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 applied for FIP benefits.
2. On October 10, 2014, the Department denied Claimant's application because she is subject to a lifetime sanction due to her three instances of noncompliance with work related activities.
3. On October 10, 2014, the Department sent the Claimant its decision.
4. On October 14, 2014, the Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

In this case, the Claimant argued that she had never been informed that she was on a lifetime sanction from FIP benefits. The record contains three, different DHS-1605, Notice of Case Action forms which informed the Claimant that she is no longer eligible for FIP benefits. The Claimant argued that her last and third sanction was inappropriate after child was sick and she was unable to leave home to supply the Department with proper verification of the fact that she was no longer attending school. The record also contains the hearing decision issued on November 9, 2012, in which the Administrative Law Judge refers to a DHS-1605, Notice of the Case Action which informed the Claimant that her benefits would be closing due to a lifetime sanction for a third instance of noncompliance. The Claimant asserted that she did not receive the DHS-1605, Notice Case Action informing her of a lifetime sanction. When the Department's worker showed the Claimant the DHS-1605, Notice of Case Action, the Claimant asserted that she had never received that document. The Claimant was questioned and she testified that she was residing at the address which was listed on the DHS-1605, Notice of Case Action at the time that the notice was sent to her.

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). As the Claimant testified that she resided at the address to where the DHS-1605, Notice of Case Action was sent, the evidence is insufficient to rebut the presumption that the Claimant was notified of her lifetime sanction. This is particularly so, as she was also notified of it in the hearing decision which she did not contest receiving.

The penalty for noncompliance without good cause is FIP EDG closure. Effective October 1, 2011, the following minimum penalties apply:

- For the individual's first occurrence of noncompliance, Bridges closes the FIP EDG for not less than three calendar months.
- For the individual's second occurrence of noncompliance, Bridges closes the FIP EDG for not less than six calendar months.
- For the individual's third occurrence of noncompliance, Bridges closes the FIP EDG for a lifetime sanction.

The individual penalty counter begins April 1, 2007. Individual penalties served after October 1, 2011 will be added to the individual's existing penalty count. In this case, the record clearly establishes that the Claimant has three instances of noncompliance. Therefore, when the Department took action to deny her application due to a lifetime sanction, the Administrative Law Judge determines that action was in accordance with departmental policy.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it took action to deny the Claimant's FIP case.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Susanne Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/5/2014**

Date Mailed: **12/5/2014**

SEH/hj

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

cc:

