

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

IN THE MATTER OF:



Reg. No.: 14-000753
Issue No.: 1002
Case No.: [REDACTED]
Hearing Date: May 7, 2014
County: Isabella

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

HEARING DECISION

Following 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 May 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Case Manager [REDACTED] and Michigan Works Agency (MWA) Case Manager [REDACTED].

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP, or cash assistance) benefits?

It is noted that the Department identified the Food Assistance Program (FAP) as an issue for the hearing. Claimant stated she is not contesting any action concerning FAP and therefore FAP is not an issue herein.

FINDINGS OF FACT

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

1. Claimant was an on-going recipient of FIP benefits.
2. On February 24, 2014, the Department mailed to Claimant a letter (Exhibit 1 Pages 3-4) requiring her to attend a series of group counseling sessions on Wednesdays, from 10:30 a.m. until noon, beginning March 12, 2013. Her participation in the sessions was mandatory.
3. Claimant did not attend the March 12 session.
4. On March 14, 2014, the Department mailed Claimant a Notice of Case Action (Exhibit 1 Pages 6-12) informing her that she "failed to participate as required in

employment and/or self-sufficiency related activities . . .” by not participating in the sessions. Her FIP was closed effective April 1, 2014. On that same date it sent her a Notice of Noncompliance (Exhibit 1 Page 13-14) scheduling a triage for March 26, 2014 at 9:00 a.m. during which she was to have an opportunity to verify her reason for non-compliance.

5. Claimant attended the triage. The Department found she had not shown good cause for not attending the sessions.
6. Claimant has not previously been found to be non-compliant with FIP work-related activities.
7. On April 9, 2014, the Department received Claimant’s hearing request.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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.

The PATH program requirements including education and training opportunities are found in BEM 229. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. A Work Eligible Individual (WEI) who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. If the client does not return the activity log by the due date, it is treated as a noncompliance; see BEM 233A. When a FAP recipient is non-compliant, BEM 233B establishes several consequences.“

If a participant is active FIP and FAP at the time of FIP noncompliance, determination of FAP good cause is based on the FIP good cause reasons outlined in BEM 233A. For the FAP determination, if the client does not meet one of the FIP good cause reasons, determine the FAP disqualification based on FIP deferral criteria only as outlined in BEM 230A, or the FAP deferral reason of care of a child under 6 or education. No other deferral reasons apply for participants active FIP and FAP. Determine good cause during triage appointment/phone conference and prior to the negative action period. Good cause must be provided prior to the end of the negative action period.

“Determine good cause during triage and prior to the negative action effective date. Good cause must be verified and provided prior to the end

of the negative action period and can be based on information already on file with the DHS or PATH." BEM 233A p 11 (7/1/13).

Per BEM 233A, "good cause for non-compliance" are based on factors beyond control of the client. Some circumstances that are considered "good cause" are: working 40 hours or more; client is unfit for a particular job; illness or injury; lack of child care; lack of transportation; unplanned events; long commute. "If it is determined during triage the client has good cause, and good cause issues have been resolved, send the client back to PATH."

The critical issue here is whether Claimant established good cause for non-compliance prior to the end of the negative action period. Claimant testified that she did not attend the counseling session on March 12 because she did not receive the notice. The Department used the address that the Claimant provided – and which she verified at the hearing. That was the same address that Claimant had provided to the [REDACTED] when she was released on bond on February 16, 2014. Although Claimant said that she "had just moved" to her current residence, that does not change the fact that the notice was sent to the address she had been using. The Claimant has failed to rebut the presumption that she received the Notice. In common-law there is a presumption that letters have been received after being placed in the mail in the due course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). Claimant did not establish good cause prior to the negative action effective date.

The Administrative Law Judge, based on 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 determined that Claimant failed to comply with the training requirements, and that she failed to show good cause for her non-compliance.

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **5/8/2014**

Date Mailed: **5/8/2014**

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CC:

