



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 25, 2018
MAHS Docket No.: 18-007755
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

Following Petitioner'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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 30, 2018, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Hearing Facilitator Dionere Craft and Family Independence Specialist Ollie Perin. Ms. Craft and Ms. Perin testified on behalf of the Department. The Department submitted 13 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

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

FINDINGS OF FACT

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

1. On March 13, 2018, the Department mailed Petitioner a PATH Appointment Notice scheduling her for an appointment on March 26, 2018 at 9:00 a.m. at the Resource Network. The notice indicated that "DHS will help you with transportation and child care if needed to attend PATH. Tell your specialist if you need help with transportation or child care right away." [Dept. Exh. 11].

2. On April 2, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her FIP benefits were closing effective May 1, 2018 ongoing because for a “second time, you or a group member failed to participate in employment and/or self-sufficiency-related activities or you quit a job, were fired, or reduced your hours of employment without good cause. FIP must remain closed for at least six (6) months. The group won’t get benefits from May 1, 2018 through October 31, 2018. You may want to reapply during the last month of the penalty period.” [Dept. Exh. 7-10].
3. On April 2, 2018, the Department mailed Petitioner a Notice of Noncompliance for the date of March 30, 2018, indicating that she was in non-compliance for a second time. [Dept. Exh. 12-13].
4. On July 5, 2018, Petitioner applied for FIP benefits. [Dept. Exh. 1].
5. On July 6, 2018, the Department mailed Petitioner a Notice of Case Action informing her that her application for FIP benefits had been denied because for a “second time, you or a group member failed to participate in employment and/or self-sufficiency-related activities or you quit a job, were fired, or reduced your hours of employment without good cause. FIP must remain closed for at least six (6) months. The group won’t get benefits from May 1, 2018 through October 31, 2018. You may want to reapply during the last month of the penalty period.” [Dept. Exh. 4-6].
6. On July 23, 2018, Petitioner submitted a Request for Hearing to the Department. [Dept. Exh. 2-3].
7. On August 30, 2018, Petitioner testified that she did not receive the notice of triage because she lived in Hamtramk, not Detroit, which was the city listed on the address. [Testimony of ██████████ ██████████]
8. All of the aforementioned documents, to include the Notice of Hearing for the above-captioned case were addressed to the same address, with Detroit listed as the city.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of

Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

Noncompliance Penalties for Active FIP Individuals and Member Adds

The penalty for noncompliance without good cause is FIP EDG closure. BEM 233A, p (7/1/2018). 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, Petitioner was actively serving a second noncompliance as indicated on the April 2, 2018 and July 6, 2018 Notice of Case Action's. The noncompliance was from May 1, 2018 through October 31, 2018, which was indicated on each Notice of Case Action and the additional Notice of Noncompliance dated, April 2, 2018. The Notices also indicated that the FIP case would be closed for a minimum of six months.

Petitioner failed to appear for the triage and testified that she never received the Notice of Noncompliance because it was addressed to Detroit, instead of Hamtramk. However, every document presented in the above-captioned matter had the Detroit address, to include the Notice of Hearing.

In addition, 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). Petitioner failed to provide credible, material, and substantial evidence to rebut the presumption of receipt as the Department mailed all correspondence to Petitioner's address of record, which had "Detroit," not "Hamtramk," as the city.

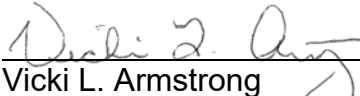
As a result of serving the six-month noncompliance period from May 1, 2018 through October 31, 2018, Petitioner was not eligible to apply for FIP until the noncompliance period ended.

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 denied Petitioner's FIP application.

DECISION AND ORDER

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

VLA/nr



Vicki L. Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; 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

DHHS

Demitra Owens
12140 Joseph Campau
Hamtramck, MI
48212

Wayne 55 County DHHS- via electronic
mail

BSC4- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

H. Norfleet- via electronic mail

D. Sweeney- via electronic mail

Petitioner

[REDACTED]
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