

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED],

Claimant

Reg No: 2009-15326

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 2, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on April 2, 2009. The Claimant appeared and testified. Roy Davis, FIW, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed Claimant's FIP case for failure to attend Work First.

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 applied for FIP benefits in 2007.
2. Claimant testified that at the time Claimant applied for FIP benefits, she also inquired about SER benefits to help her move.

3. The Department testified that Claimant never filled out an application for SER benefits.
4. Claimant was sanctioned 2/6/08 for noncompliance with Work First resulting in a three month sanction period from FIP benefits beginning April 2008.
5. Claimant testified that she came back into the Department office on 8/12/08 and reapplied for FIP benefits.
6. The Department testified that there was no application for FIP benefits filed in August of 2008.
7. According the Department, Claimant filed an application for FIP benefits on 12/18/08.
8. The 12/18/08 application was closed for nonparticipation in Work First.
9. Claimant testified that she never received any notice that she was to appear at Work First.
10. The Department did not present any evidence that notice to appear at Work First was sent to Claimant.
11. Claimant's FIP benefits were denied effective 2/2/09. The Department testified that no negative action was issued.
12. On February 12, 2009, the Department received the Claimant's written hearing request.
13. The hearing request refers to 2007 SER benefits, FAP and FIP benefits.
14. Claimant is currently receiving FAP benefits in the amount of \$975.00/month. Both parties testified that there is no issue with the FAP benefits.

CONCLUSIONS OF LAW

The Family Independence Program (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 of Human Services (formerly known as the Family Independence Agency) 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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal and State laws require each work eligible individual in a FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. PEM 230A. All work eligible individuals who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized. PEM 233A. Failure to appear at a JET program results in noncompliance. Id.

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. PEM 233A at 4. The penalty for noncompliance without good cause is FIP closure. Id. at 6. If good cause is established the negative action is to be deleted. Id. at 12.

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness. PAM 600 at 1.

The client has 90 calendar days from the date of the written notice of case action to request a hearing. Id. at 4.

In this case, the hearing request in regards to the 2007 SER benefits and the August 2008 application for FIP benefits is untimely. While Claimant never received a notice denying her benefits, it is far enough past the 90 day period to request a hearing that the Claimant is considered to be on constructive notice of a negative decision and the request is untimely. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determinations regarding 2007 SER benefits and the August 2008 application for FIP benefits are affirmed.

██████████ did apply for FIP benefits again on December 18, 2008 and the hearing request regarding those benefits is timely. ██████████ gave credible testimony that she never received notice that she needed to appear at Work First. This evidence was not countered by the Department. Therefore, this Administrative Law Judge finds that the 12/18/08 FIP case should not have been closed.

Based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's 12/18/08 FIP case is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Claimant's request for hearing on 12/07 SER benefits and an 08/08 Application for FIP benefits is untimely.

This Administrative Law Judge further finds based upon the above findings of fact and conclusions of law that the Department's determination to close Claimant's 12/18/08 FIP case is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen and reinstate Claimant's 12/18/08 FIP case.
2. The Department shall supplement the Claimant with any lost benefits she was otherwise entitled to receive.

/s/
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/14/09

Date Mailed: 04/15/09

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.

JV/dj

cc:

