

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: 2009-23892

Issue No: 1038

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 13, 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 July 13, 2009. The Claimant appeared and testified. Jane Rehse, FIS Case Manager, 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 was an active FIP recipient.
2. On 3/16/09, Claimant was sent a notice instructing her to attend Work First on 3/23/09. (Exhibit 1, p. 1).
3. Claimant failed to attend on 3/23/09.

4. On 4/2/09, the Department sent Claimant a notice of noncompliance with a scheduled triage date of 4/9/09. (Exhibit 1, p. 2).
5. Claimant did not appear for the triage date.
6. Claimant testified that she was not receiving mail at the time and submitted a computer printout from the US Postal Service as evidence. (Exhibit 2).
7. The Department found no good cause for missing Work First and closed Claimant's FIP case on 4/14/09. (Exhibit 1, p. 6).
8. On May 22, 2009, the Department received the Claimant's written hearing request.

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. 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).

In the present case, Claimant testified that she did not receive the notices sent from the Department on 3/16/09 or 4/2/09. The Department, however, indicated that Claimant did receive mail in February of 2009 as the Department sent out a notice asking for verification of Claimant's newborn's birth certificate. Claimant responded to the Department request and supplemented with the correct information in February of 2009.

Claimant testified, however, that she was having difficulty with getting her mail delivered. In support of her claim, Claimant provided a United States Postal Service screen printout which indicates that as of 9/6/08 Claimant moved from her current address and left no forwarding address. The right hand side of the document indicates "official changes" and marked is "Cancel COA Order Resume Delivery". This section is dated 2/29/09. Claimant testified that she was told by the US Postal Service that this change would take a couple weeks to institute and that she did not start receiving mail until after the Department sent out its notices. However, the 4/2/09 notice was sent out four plus weeks after Claimant requested the change of address on 2/29/09. Furthermore, it is hard to reconcile Claimant's response to a Department request in February of 2009 and then claim no receipt of mail in March of 2009.

Accordingly, the Administrative Law Judge finds that the Department did not violate policy in making its determination. Based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's case, effective 4/14/09 is AFFIRMED.

Claimant is entitled to reapply for benefits immediately following the expiration of any sanction period.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination to close Claimant's FIP case effective 4/14/09 is AFFIRMED.

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

Date Signed: 08/05/09

Date Mailed: 08/10/09

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:

