

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.: 2009-36331

Issue No.: 1038

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

October 29, 2009

Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on October 29, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department properly close the Claimant's 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. According to an eligibility notice the claimant applied for FIP on June 8, 2009.
2. The department closed the claimant's FIP in what it agrees was an error.
3. On July 1, 2009, the department sent the claimant an eligibility notice that her FIP was opened retroactive to June 9, 2009. (Department exhibit 3).

4. On July 1, 2009, the department sent the claimant a notice of a Jobs, Education and Training (JET) appointment. (Department exhibit 1).
5. On August 11, 2009, the department closed the Claimant's FIP.
6. On September 8, 2009, claimant filed a request for a hearing.

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).

The department closed the claimant's FIP in, what it admits, was error. The department then sent the claimant a notice that she was found eligible for FIP, retroactive to June 9, 2009.

The department then sent the claimant a JET appointment notice to attend JET on July 13, 2009. The department testified that it sent the notice of her eligibility and her JET appointment notice together. The eligibility notice bears a hand written note that the claimant "must attend JET as instructed."

The department moved to close the claimant's FIP when the claimant did not attend JET as scheduled.

The claimant states that she did not receive the JET appointment notice but the address that appears on the eligibility notice is the correct address and there is a presumption that the mail was delivered correctly without evidence to the contrary.

Here, the department argues that since the claimant's FIP was opened based on a June 8, 2009, application and the claimant never attended JET it was not bound to notice the claimant of the closure of her FIP or schedule a triage.

NONCOMPLIANCE PENALTIES AT APPLICATION

Noncompliance by a WEI while the application is pending results in **group** ineligibility. A WEI applicant who refused employment without good cause, within 30 days prior to the date of application or while the application is pending must have benefits delayed. See **“Benefit Delay for Refusing Employment”** below.

A non-WEI who does not complete the FAST within 30 days and the application is still pending is denied FIP.

A good cause determination is not required for applicants who are noncompliant prior to FIP case opening. (PEM 233A, pp.5-6)

The department should have scheduled a triage for the case because it had been opened but the claimant did not show good cause at the hearing by stating that the notice was never received.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, **AFFIRMS** the department's actions in the instant case.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/14/09

Date Mailed: 12/14/09

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 receipt 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.

MJB/jlg

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