

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2009-13447

Issue No: 1021

Case No: ██████████

Load No: ██████████

Hearing Date:

April 8, 2009

Gratiot 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 a hearing received by the Department on February 5, 2009. After due notice, a telephone hearing has conducted from Detroit, Michigan on April 8, 2009. The Claimant appeared and testified along with his girlfriend, ██████████ ██████████ Lori Teal, FIS and Lee Hale, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action, effective 2/14/09, resulting in closure of the Claimant's FIP case due to noncompliance with JET.

FINDINGS OF FACT

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

1. The Claimant is a FIP recipient. Claimant's girlfriend, ██████████, is a member of his FIP group.

2. The Department indicated that in November 2008, [REDACTED] came off EFIP and went back on FIP. She then became a work eligible individual and subject to JET requirements.
3. [REDACTED] was issued a notice that she needed to complete a FAST – a web based screening tool on 11/25/08. (Exhibit 1, p. 3)
4. The Claimant and [REDACTED] testified that they never received the FAST notice. The testimony also revealed that their family moved to a different location in November of 2008.
5. Claimant was issued a notice of noncompliance on 2/2/09 indicating that there would be a triage on 2/10/09. (Exhibit 1, p. 4).
6. Claimant and [REDACTED] testified that this was the first they heard of the requirement to complete FAST. Claimant also testified that he took care of it as soon as he was made aware.
7. The Department issued a negative action for noncompliance on 2/10/09, effective 2/14/09.
8. On February 5, 2009, the Department received the Claimant's Request for Hearing protesting the denial of the FIP 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 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.

The Family Automated Screening Tool (FAST) is a Web-based initial screening to identify the strengths and needs of FIP families. Completing a FAST is the FIP client’s first required work related activity and establishes a foundation for the development of a successful FSSP. All Work Eligible Individuals (WEIs) are required to complete the FAST within 30 days and participate in the development of the FSSP within 90 days of the FAST notice. Non compliance without good cause will result in a denial of FIP.

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.

In this case, the Claimant and [REDACTED] credibly testified that he never received the notice of the FAST requirement. While the Department pointed out that the notice was not returned as undeliverable, since Claimant was moving, there are a number of variables that could have interfered with his receipt of the notice. There is no evidence to disprove Claimant’s testimony that he did not receive it. Claimant testified that a change of address was filed with

the post office, but that he was unaware of the requirement to complete the FAST until the negative action notice was issued. Furthermore, Claimant completed the FAST as soon as he received notice.

This Administrative Law Judge cannot find that Claimant failed to cooperate since Claimant never received notice of the FAST requirement. This was a circumstance outside of Claimant's control due to his moving and justifies good cause. Accordingly, it is found that the Department's termination of the Claimant's FIP benefits is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is held:

1. The Department's determination to issue a negative action effective 2/14/09 is REVERSED.
2. The negative action of 2/14/09 shall be deleted.
3. Claimant's FIP application shall be reinstated and continued to open and the Department shall supplement the Claimant for any lost benefits (if any) he 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:

