

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: 2009-24082

Issue No: 1021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 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 July 2, 2009. The Claimant appeared and testified. Vivian Turner, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly issued a negative action and closed Claimant's FIP case effective 4/30/09 for a 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 and was referred to JET in July of 2008.
2. Claimant was attending Work First until she obtained a job.
3. After Claimant's employment ended in February of 2009, Claimant reported to Work First to see what she should be doing.

4. Claimant did not receive written notice to report to Work First on a particular date although the JET case notes indicate that Claimant was verbally instructed to report to Work First.
5. The JET case notes indicate as follows:
 - a. Claimant did not return to TRN on 3/4/09 as verbally instructed.
 - b. Claimant did not return repeated telephone calls to return to TRN.
 - c. Claimant did not attend Mandatory Meeting on 4/9/09.
 - d. Per voicemail, in morning of 4/13/09, Claimant did not attend Mandatory Meeting on 4/9/09 but would attend on 4/13/09.
 - e. Claimant did not show for 4/13/09 meeting.
 - f. Claimant never turned in information on schooling.

(Exhibit 1, p. 1).

6. A triage was scheduled for 5/5/09. Notice was sent on 4/30/09. (Exhibit 1, p. 3). Claimant did not call or appear.
7. The Department found no good cause for Claimant missing Work First on 5/5/09. (Exhibit 1, p. 4).
8. On May 12, 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. Good cause includes being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. Id. 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 this case, the Claimant testified that she was not informed that she needed to attend Work First regularly. Claimant indicated that she was looking for jobs on her own, but also said that she was attending school and trying to open a child care business. Claimant testified that she did not receive notice of the triage or any phone calls from the Department regarding attending Work First. Yet, Claimant also indicated that she was aware from previous involvement in Work First that attendance and filling out logs was required. The Administrative Law Judge finds the Department's evidence more credible given the JET workers detailed case notes. Claimant did

not have any evidence to rebut the receipt of properly addressed mail. Nor could Claimant rebut the voice mail left indicating that Claimant would attend a meeting on 4/13/09. Claimant did not show good cause for missing the scheduled JET appointments or triage.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly closed the Claimant's FIP case.

Accordingly, it is ORDERED that the Department's negative action and closure of Claimant's FIP case on 4/30/09 is AFFIRMED.

/s/

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

Date Signed: 07/22/09

Date Mailed: 07/23/09

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:

