

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: 2009-33292

Issue No: 1021

Case No: ██████████

Load No: ██████████

Hearing Date:

September 23, 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 September 23, 2009. The Claimant appeared and testified. Cassandra Goodman, FIM, Orangie Robinson, FIS and Brenda Webb, FIM, 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 who was deferred from work first following the birth of her baby.

2. On 7/1/09, The Department sent Claimant a notice instructing her to attend Work First on 7/6/09 or 7/13/09. (Exhibit 1, p. 1).
3. Claimant failed to attend Work First prior to 7/22/09.
4. Claimant testified that she did not receive the notice.
5. The file does not contain notice of noncompliance.
6. The Department indicated that a triage was held. However, Claimant testified that she never attended a triage meeting.
7. Claimant's case was closed for failure to attend Work First.
8. On August 13, 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).

JET participants will not be terminated from a JET program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. Locally coordinate a process to notify the MWA case manager of triage meetings including scheduling guidelines. The Department must also send a DHS-2444, Notice of Employment and/or Self-Sufficiency-Related Noncompliance, within three days after learning of the noncompliance and which must include the following information:

- The date(s) of the noncompliance.
- The reason the client was determined to be noncompliant.
- The penalty that will be imposed.
- Schedule a triage to be held within the negative action period.

PEM 233A, pp. 7-8.

In the present case, Claimant testified that she did not receive notice to appear at Work First. Furthermore, Claimant did not receive notice of or attend a triage before her case was closed. Claimant testified that she appeared at the local office to fill out the on-line questionnaire, but she did not meet with anyone on that day regarding her noncompliance. Nor could the Department confirm that a triage was held. Claimant further testified credibly that the first time she received notice of the requirement to appear at Work First was when she received notice of her case closure.

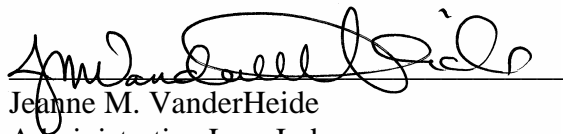
Accordingly, the Administrative Law Judge finds that the Department did not comply with policy in closing Claimant's case as Claimant did not receive notice of the noncompliance or triage. Based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's case FIP case is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not comply with policy in closing the Claimant's FIP case.

Accordingly, it is ORDERED:

1. The Department's FAP eligibility determination is REVERSED.
2. The Department shall reopen Claimant's FIP case from the date of closure and delete any negative action.
3. The Department shall supplement Claimant with any lost benefits she was otherwise entitled to receive



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

Date Signed: 10/12/09

Date Mailed: 10/13/09

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.

2009-33292/JV

JV/dj

cc:

