

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: 2009-34465
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 7, 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 October 7, 2009. The Claimant appeared and testified. Michael Dennis, JET 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 applied for FIP benefits on July 17, 2009.
2. On 7/17/09, the Department sent a notice instructing Claimant to attend Work First on 7/27/09 along with a verification checklist. (Exhibit 1, p. 1).
3. Claimant failed to attend on 7/27/09.

4. On 8/12/09, the Department sent Claimant a notice of noncompliance with a scheduled JET orientation date of 7/27/09. (Exhibit 1, p. 4).
5. Claimant testified that she did not receive the Work First Notice or the Verification checklist.
6. The Department closed Claimant's FIP case on 8/12/09. (Exhibit 1, p. 4).
7. On August 25, 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 credibly that she did not receive the notices sent from the Department on 7/17/09. Claimant's testimony is found credible as both the notice and the wage verification were sent out on the same date and after looking at the proposed exhibits, Claimant testified that she never received those two documents. Claimant testified that she followed up with her JET case manager at the end of August to see when she was scheduled to attend the JET orientation. Unfortunately, the JET case manager was on vacation and Claimant was unable to reach him. Upon return from vacation, the JET case manager was attending Bridges training in Lansing. Claimant's last date for JET orientation, however, was 8/7/09 – yet the Department did not offer Claimant another orientation date. The Administrative Judge finds that in this situation, Claimant had good cause for not attending the JET orientation as she did not receive the notice. As noncompliance is defined as not attending without good cause (PEM 233A), and good cause exists, then Claimant was compliant.

Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination to close Claimant's case effective 8/12/09 is REVERSED.

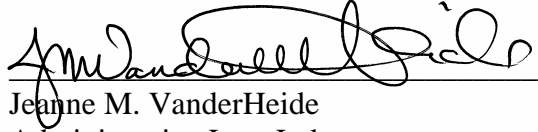
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department's determination is not upheld.

Accordingly, it is ORDERED:

1. The Department shall reopen and reprocess Claimant's FIP case from the date of closure, 8/12/09.

2. The Department shall supplement the 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: 11/02/09

Date Mailed: 11/09/09

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:

