

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS & RULES
FOR THE DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

DHS Req. No: 2009-4050
SOAHR Docket No. 2009-4132 REHD
Case No: [REDACTED]
Load No: [REDACTED]

[REDACTED]
Claimant

RECONSIDERATION DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993 AACS R 400.919 upon the request of the Claimant.

ISSUE

Did the Administrative Law Judge properly reverse the Department of Human Services (DHS) closure of Claimant's FIP case?

FINDINGS OF FACTS

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

1. On October 29, 2008, ALJ Michael Bennane issued a Hearing Decision in which the ALJ reversed the Department of Human Services (DHS) closure of Claimant's FIP case.
2. On November 6, 2008, the State Office of Administrative Hearings and Rules (SOAHR) for the Department of Human Services received a Request for Reconsideration submitted by DHS.
3. On January 5, 2009, SOAHR granted the Department's Request for Reconsideration and issued an Order of Reconsideration.
4. Findings of Fact 1 - 4 from the Hearing Decision, mailed on October 30, 2008, are hereby incorporated by reference.

5. On July 23, 2008 the Department sent Claimant a verification checklist scheduling an interview to develop a Family Self-Sufficiency Plan (FSSP). The interview was for August 6, 2008.
6. Claimant did not report for the interview.
7. On August 6, 2008 the Department sent Claimant a notice of case action notifying Claimant that the FIP case would be closed for failure to participate in employment related activities and scheduling a Triage for August 13, 2008. Claimant failed to appear for the Triage.
8. On August 19, 2008 the Department closed Claimant's FIP case.

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 Family Independence Program (FIP) and Refugee Assistance Program (RAP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP and RAP engage in employment and self-sufficiency-related activities so they can become self-supporting. PEM Item 230

Federal and State laws require each work eligible individual (WEI) in the FIP and RAP 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. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency.

WEIs not referred to JET will participate in other activities to overcome barriers so they may eventually be referred to JET or other employment service. DHS must monitor these activities and record the client's participation in the Family Self-Sufficiency Plan (FSSP).

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency-related activities is subject to penalties.

All WEIs, unless temporarily deferred, must engage in employment that pays at least state minimum wage or participate in other employment-related services. WEIs who are temporarily deferred are required to participate in activities that will assist in overcoming barriers and prepare them for employment or referral to an employment services provider. PEM Item 230. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause: Failure or refusal to...Develop a Family Self-Sufficiency Plan (FSSP) or Personal Responsibility Plan and Family Contract (PRPFC). FIS must have scheduled a FSSP completion appointment with the client and the client failed to attend before considering a client noncompliant for FSSP. PEM 230A

The penalty for noncompliance without good cause is FIP closure. 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. A claim of good cause must be verified and documented. 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. Clients can either attend a meeting or participate in a conference call if attendance at the triage meeting is not possible. If a client calls to reschedule an already scheduled triage meeting, offer a phone conference at that time. Clients must comply with triage requirements within the negative action period. PEM 233A

In the present case the Department sent Claimant a verification checklist requesting an interview to discuss a Family Self Sufficiency Plan (FSSP). Claimant was to report to the office on August 6, 2008. Claimant did not appear for the appointment. On that date the Department sent Claimant a notice that her case would close because of noncompliance with the employment related requirements. Claimant was also sent a notice for a Triage appointment to discuss the noncompliance. The Triage appointment was for August 13, 2008. Claimant did not appear for the Triage. The case closed on August 19, 2008.

Claimant argues that she did not receive the notice of the FSSP appointment, Triage appointment or the notice of closure. She did not pick up her mail from her post office box during the more than three week period in which the notices were mailed. She maintains that she did not pick up her mail because her she was unable to go to the post office due to illness suffered by herself and her husband. She alleges that she had good cause for noncompliance with employment related activities.

The ALJ erred in finding that Claimant had good cause for noncompliance with employment related activities. Claimant did not receive notice of the Department appointments because she did not pick up her mail. There was insufficient evidence on

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the record to establish that she, her husband or others were unable to pick up her mail. There were no hospital records, doctor's reports or other evidence that such extreme circumstances were present that mail could not be obtained for more than a three week period. Although at the hearing the Department seemed to accept Claimant's statement that she and her husband were ill, they did not stipulate to that fact. Further there was no additional testimony garnered that would substantiate that an extreme situation existed in Claimant's household that preclude such an essential activity as obtaining the mail. Substantial evidence on the record did not exist to establish good cause for this Claimant.

DECISION AND ORDER

This Administrative Law Judge, based on the above findings of fact and conclusion of law, decides that the Administrative Law Judge erred when he found that Claimant had good cause for noncompliance with employment related activities. The Department was correct in closing Claimant's FIP.

IT IS THEREFORE ORDERED:

That the Administrative Law Judge's decision mailed August 21, 2007 on the issue of FIP is REVERSED.

That the Department's August 19, 2008 closure of Claimant's FIP case be and is hereby affirmed.

/s/

Rhonda Craig
Administrative Law Judge
for Michigan Department of Human Services

Date Signed: May 5, 2009
Date Mailed: May 7, 2009

cc:

[REDACTED]

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***** NOTICE *****

The Appellant may appeal this Rehearing Decision to Circuit Court within 30 days of the mailing of this Rehearing Decision.