

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.: 2010 25169
Issue No.: 1038
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 10, 2010
Wayne County DHS 57

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held by the undersigned Administrative Law Judge in Detroit Michigan on May 10, 2010. The Claimant [REDACTED] did not appear however, her husband [REDACTED], appeared and testified on his own behalf. [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) properly deny the Claimant's application for the Family Income Program, ("FIP") for the claimant's failure to attend work-related orientation activities through the JET program as required?

FINDINGS OF FACT

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

1. The claimant is a FAP recipient and applied for the FIP benefits on 11/13/09.
Exhibit 1
2. The Claimant's application was dismissed accidentally by the Department but was reopened on January 29, 2010. Exhibit 2
3. The Department sent a letter to the Claimant at the correct address on 3/10/10 assigning the Claimant to attend Work First on March 26, 2010. Exhibit 3
4. The claimant's husband did not attend the Work First orientation scheduled for March 26, 2010 because he did not receive the letter assigning him to attend orientation.
5. The Claimant's husband was and is fully prepared to attend Work First but did not receive a letter assigning him to attend orientation and was not told by his worker that he would be receiving such a letter.
6. On three separate occasions the Department's records show that it believed the Claimant was assigned to attend orientation, January 28, 2010, February 17, 2010 and March 31, 2010. Exhibit 4 (Work First Participant History)
7. The Department did not provide letters to the Claimant indicating that he was sent previous letters to attend Work First Orientation.
8. The Department denied the claimant's FIP application on February 16, 2010 in a Notice of Case Action dated April 3, 2010 for failure to attend JET orientation.
Exhibit 5
9. On February 25, 2010 the Claimant requested a hearing regarding the Department's denial of the FIP application.

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 (DHS or department) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

All Family Independence Program (FIP) and Refugee Assistance Program (RAP) eligible adults and 16- and 17-year-olds not in high school full time must be referred to the Jobs, Education and Training (JET) Program or other employment service provider, unless 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 to find employment. BEM 230A, p. 1. A cash recipient who refuses, without good cause, to participate in assigned employment and/or self-sufficiency-related activities is subject to penalties. BEM 230A, p. 1.

The Claimant was assigned by the Department as a condition of receiving FIP Cash assistance benefits to attend work first. On three separate occasions the Department's records indicate the claimant was assigned to attend orientation on, January 28, 2010, February 17, 2010 and March 31, 2010. The Department apparently improperly closed the Claimant's FIP application sometime prior to the claimant's hearing request of February 25, 2010, prior to the last notice to attend work first which was dated March 10, 2010.

The Claimant's spouse did not attend the work first orientation on March 26, 2010 because he did not receive the notice to attend dated 3/10/2010 and the FIP application was again denied, but the Notice of Case action provided by the Department does not refer to the last assignment to Work First and takes negative action as of February 17, 2010.

Although normally there is a presumption that a letter which is properly addressed is presumed to have been received, in this case given the numerous miss cues given by the Department, and based upon the credible testimony of the Claimant it is found that the claimant did not receive the March 10, 2010 notice by the Department to attend the Work First orientation.

Under these circumstances it must be determined that the Department improperly denied the claimant's FIP Application for non compliance with Work First activities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the claimant did not participate in the JET program orientation during the period that her application for FIP benefits was pending because the notice to attend Work First was not received by the Claimant and therefore the Department improperly denied the Claimant's FIP application for failure to attend.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

Therefore, it is ORDERED:

The Department is ordered to reinstate the Claimant's FIP application retroactive to November 13, 2009, the date of the original application, and shall refer the Claimant to Work First again.

Pursuant to applicable policy the Department is ordered to supplement the Claimant for FIP benefits retroactive to the date of application for FIP benefits she is otherwise entitled to receive.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/21/2010

Date Mailed: 06/21/2010

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.

LFM/cjp

cc:

