

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 36721
Issue No: 1038
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 23, 2010
Macomb County DHS

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 June 23, 2010. The Claimant appeared and testified on her own behalf. Marquettas Allen Hunter, Case Manager, appeared on behalf of the Department.

ISSUE

Did the Department of Human Services (DHS) properly close the Claimant's application for the Family Income Program (FIP) for the Claimant's failure to attend work-related activities orientation through the Work First 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 was a recipient of FIP cash assistance benefits.

2. The Claimant was assigned to attend a Work First orientation on April 5, 2010 and did not appear or otherwise report for orientation. Exhibit 1
3. The Claimant was originally deferred from attending the Work First program due to the birth of a child on [REDACTED].
4. The Claimant's worker scheduled a hearing with the Claimant to discuss her failure to attend Work First by Notice of Non Compliance dated April 14, 2010. Exhibit 2
5. The Notice of Noncompliance was sent to the Claimant at [REDACTED] [REDACTED]. Exhibit 2
6. The Jobs, Education, and Training Appointment Notice was sent to the Claimant at [REDACTED]. Exhibit 1
7. The Claimant testified that she did not receive the Notice of Noncompliance or the Jobs, Education, and Training Appointment Notice. Exhibits 1 and 2
8. The Claimant did receive the Notice of Case Action dated May 1, 2010. The Notice was also mailed to [REDACTED]. Exhibit 3
9. The Claimant lives in a trailer park and testified she had trouble with her mail.
10. None of the mail the Claimant failed to receive was returned as undeliverable to the Department.
11. The Claimant did not attend the Notice of Non Compliance meeting scheduled for April 22, 2010.
12. The Notice of Case Action closed the Claimant's FIP case for a three month period beginning June 1, 2010.

13. The Claimant requested a hearing on May 4, 2010, which was received by the Department on May 5, 2010. Claimant requested a hearing protesting the closure of her FIP benefits. The Claimant did not mention that the reason for her noncompliance with the Work First requirements was due to failing to receive the notice scheduling her for orientation and the notice of noncompliance. Exhibit 4

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 and was assigned to attend orientation on April 5, 2010.

The Claimant did not attend the orientation because, at the hearing, she testified she such did not receive the Notice of Jobs, Education, and Training appointment.

The Claimant also did not attend the scheduled meeting on April 22, 2010 scheduled to determine why she failed to attend the Work First orientation. The Claimant claimed she did not receive the orientation notice. Both documents were properly addressed to the Claimant, as she confirmed during the hearing. The Claimant did receive the Notice of Case Action advising her of the closure of her benefits. The Department testified that none of the documents the Claimant claims to have not received were returned as undeliverable.

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).

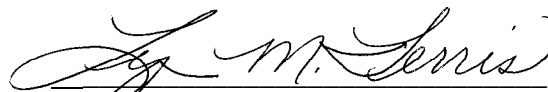
Under the circumstances presented in this case, the presumption that a letter that is properly addressed is presumed to have been received by the person it is addressed to warrants a finding that the letters were properly sent and received. Based on the record and evidence presented at the hearing, the letters must be presumed received by the Claimant and it is found that the presumption of delivery and receipt has not been overcome or rebutted by the Claimant. This decision was also influenced by the fact that the Claimant, in her hearing request, did not mention the fact that she did not receive either of the communications sent to her by the Department, and the fact that she did receive the Notice of Case Action sent to her same address. Therefore, it must be concluded that the Claimant failed to attend the Work First Orientation and respond to the notice of noncompliance and is subject to a three-month sanction for noncompliance. BEM 233A.

Under these circumstances, it is found that the Department properly closed the Claimant's FIP case for non compliance with Work First activities and correctly imposed a 3 month sanction.

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 Work First Program Orientation and that the Department properly closed the Claimant's FIP case for her failure to attend. It is also found that the Department properly imposed the three-month sanction and closure of the Claimant's FIP case.

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



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

Date Signed: 06/29/10

Date Mailed: 07/01/10

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.

LMF/dj

2010-36721/LMF

cc:

