

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 201213631
Issue No. 1038
Case No. [REDACTED]
Hearing Date: January 11, 2012
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 a hearing. After due notice, a telephone hearing was held on January 11, 2012 from Detroit, Michigan. The above named claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, [REDACTED], Work Participation program (WPP) Representative and [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged noncompliance with WPP participation.

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 ongoing FIP benefit recipient.
2. Claimant was an ongoing WPP participant.
3. Claimant had a 20 hour/week WPP obligation with 15 hours expected to be performed in community service and 5 hours to be performed in independent job search.
4. Claimant failed to verify 19.5 hours of job search in 10/2011.

5. On an unspecified date, DHS mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage.
6. On 11/29/11, a triage was held and DHS determined Claimant was noncompliant with WPP participation and that Claimant lacked good cause for the alleged noncompliance.
7. On 11/29/11, DHS initiated termination of FIP benefits effective based on Claimant's alleged noncompliance with employment-related activities.
8. On 11/29/11, Claimant requested a hearing to dispute the FIP benefit termination.

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.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A at 1. The DHS focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. *Id.* However, there are consequences for a client who refuses to participate, without good cause. *Id.*

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized. *Id.* Depending on the case situation, penalties include the following: delay in eligibility at application, ineligibility (denial or termination of FIP with no minimum penalty period), case closure for a minimum period depending on the number of previous non-compliance penalties. *Id.*

Note that DHS regulations do not objectively define what specifically constitutes a failure to participate. Thus, it is left to interpretation how many hours of JET absence constitute a failure to participate.

DHS regulations provide some guidance on this issue elsewhere in their policy. A client's participation in an unpaid work activity may be interrupted by occasional illness or unavoidable event. BEM 230 at 22. A WEI's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.*

In the present case, it was not disputed that Claimant had a 20 hour per week WPP obligation. A WPP representative testified that Claimant was expected to specifically perform 15 hours/week of community service and 5 hours per week of independent job search. DHS conceded that community service participation was not an issue and the only dispute concerned Claimant's job search participation.

The testifying WPP representative gave specifics of Claimant's job search participation. She alleged that Claimant completed .5 hours of job search for the week ending 10/8/11 and 0 hours of job search for the weeks ending 10/15/11, 10/22/11 and 10/29/11.

The WPP representative testified that job search hours were to be verified in a specific manner. A client was to attend WPP to meet personally with a case manager. The client was then to submit the log personally to the case manager. The client would then receive a blank log which would be authenticated by the case manager with his/her initials and the dates for the week that the job search log covered.

Claimant contended that he submitted job search logs and brought two of the logs to the hearing. It was not disputed that Claimant's jobs search log forms did not contain initials or dates from his case manager. Claimant stated that he obtained the logs from his case manager despite the absence of dates and initials. Claimant made an identical argument at the triage.

The testifying WPP representative gave persuasive testimony concerning WPP procedures. Based on the presented evidence, it is believed that Claimant failed to submit job search logs as required by the WPP and that the WPP properly found Claimant to fail participation for the five hours of job search for each of the four full weeks from 10/2011 but for .5 hours which Claimant was not disputed to have completed.

Claimant's 19.5 hours of job search activity lacking in 10/2011 exceeds the 16 hours of excused absences allowed by DHS policy. Accordingly, DHS established a basis for noncompliance with WPP by Claimant.

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. *Id* at 3. Good cause includes any of the following: employment for 40 hours/week, physically or mentally unfit, illness or injury, reasonable accommodation, no child care, no transportation, illegal activities, discrimination, unplanned event or factor, long commute or eligibility for an extended FIP period. *Id* at 4. A claim of good cause must be verified. *Id* at 3.

WEIs will not be terminated from a WPP program without first scheduling a triage meeting with the client to jointly discuss noncompliance and good cause. *Id* at 7. In processing a FIP closure, DHS is required to send the client a notice of non-compliance (DHS-2444) which must include: the date of the non-compliance, the reason the client was determined to be non-compliant and the penalty duration *Id* at 8. In addition, a triage must be held within the negative action period. *Id*. If good cause is asserted, a decision concerning good cause is made during the triage and prior to the negative action effective date. *Id*.

Claimant made one argument concerning good cause. Claimant contended that he was ill for the week ending 10/15/11 causing him to not participate fully with WPP requirements. Claimant failed to verify the good cause. Accordingly, it is found that Claimant had no good cause for the noncompliance.

It was not disputed that FIP benefit termination was exclusively due to alleged noncompliance by Claimant. As it is found that Claimant was noncompliant with WPP, it is also found that DHS properly terminated Claimant's FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated FIP benefits effective based on noncompliance with WPP participation. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 20, 2012

Date Mailed: January 20, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

