

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201219255
Issue No. 1038
Case No. [REDACTED]
Hearing Date: January 12, 2012
Wayne County DHS (19)

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 12, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, [REDACTED], Triage Coordinator, and [REDACTED], Manager, 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 Work Participation Program (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 and her spouse were ongoing FIP benefit recipients.
2. Claimant's spouse was assigned to attend a WPP orientation for 10/24/11.
3. On 10/24/11, Claimant's spouse was presented various documents from WPP including a WPP form which required Claimant's spouse's signature in response to some unspecified promise to provide full time effort.

4. On 10/25/11, Claimant's spouse refused to sign the form due to an alleged inability by Claimant's spouse to be available for the hours which the form would have required.
5. On 11/18/11, DHS mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage.
6. On 11/28/11, DHS held a triage and determined that Claimant's spouse did not have good cause for refusing to sign the WPP form.
7. On 11/29/11, DHS initiated termination of FIP benefits effective 1/2012 based on alleged noncompliance with employment-related activities.
8. On 12/9/11, 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.*

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

- Appear and participate with the work participation program or other employment service provider.

- Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.
- Develop a FSSP.
- Comply with activities assigned on the FSSP.
- Provide legitimate documentation of work participation.
- Appear for a scheduled appointment or meeting related to assigned activities.
- Participate in employment and/or self-sufficiency-related activities.
- Participate in required activity.
- Accept a job referral.
- Complete a job application.
- Appear for a job interview (see the exception below).
- Stating orally or in writing a definite intent not to comply with program requirements.
- Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/ or self-sufficiency-related activity.
- Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity.

It was not disputed that Claimant's spouse missed a WPP orientation for 10/10/11 and subsequently tardily attended a make-up orientation on 10/24/11. At the 10/24/11 orientation, DHS stated that Claimant was given various WPP documents including one which Claimant's spouse was asked to sign. The document was not provided as evidence. Because the form is not a DHS form (it's a WPP form), it is not certain what the document stated. Claimant testified that the form asked for a pledge of full time effort from Claimant's spouse; DHS did not dispute this testimony. It was not disputed that Claimant's spouse returned the following day and refused to sign the form because he claimed that he could not participate "full time" with WPP as the form mandated.

It should be noted that Claimant stated that she and her spouse did not receive the notice for the 10/10/11 orientation and only received the 10/24/11 orientation on the date of the orientation. In essence, Claimant contended that her spouse had excuses for missing the first orientation and being late to the make-up orientation.

It should also be noted that Claimant's spouse failed to testify; thus, all of Claimant's testimony was hearsay. By the same token, DHS failed to present any witnesses from WPP and relied on hearsay WPP notes to make their case.

Requiring an assigned participant to pledge effort by obtaining a signature on a form is a reasonable requirement of the WPP. DHS presented a reasonable basis for noncompliance.

Claimant responded that she and her spouse are the parents of five children. She stated that she stays at home with two younger children. She testified that one of her school aged children has a behavioral problem that is so severe that her husband can not be available for more than ten hours per week for work or WPP attendance. Claimant stated that her spouse is often called to her son's school to sit with the child.

To support her contention, Claimant brought a handwritten letter on hospital stationery which stated that her husband could only be available for ten hours per week due to the child's behavioral problems. Claimant contended that the letter was signed by her child's doctor though there was no indication on the letter that the letter was signed by a physician. The signer of the letter did not include "Dr." or "M.D." as part of the signature; the failure of the signer to identify himself as a physician tended to reduce the letter's authenticity. It also was unpersuasive that the signer of the letter did not address any of the child's specific medical problems and only addressed when the father was available for WPP participation. It was not disputed that the child exhibiting behavioral problems and Claimant received Supplemental Security Income (SSI) benefits; this tends to support Claimant's testimony because receipt of SSI is undisputed proof that Claimant and the child are disabled to some extent.

This was a difficult case to decide. Each side presented some persuasive evidence and some flawed evidence. It is very concerning that DHS failed to provide any first-hand evidence of Claimant's spouse's alleged WPP noncompliance including the very document which was the basis for noncompliance when Claimant's spouse refused to sign it. However, DHS presented enough evidence which was generally not disputed by Claimant to at least establish a basis for noncompliance.

On the other hand, Claimant presented some evidence which tended to negate the alleged noncompliance either directly or by establishing good cause for the noncompliance. What was most persuasive in deciding the case was the history of events leading up to the alleged noncompliance.

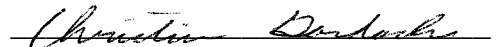
There was a pattern of difficulty in obtaining Claimant's spouse's WPP attendance. In 9/2011, Claimant contended her spouse did not live with her. Claimant then subsequently reported her spouse had returned to the home but Claimant inappropriately requested to receive FIP benefits for herself and her children, but not for her spouse. Claimant's spouse missed an orientation and then tardily attended a second one. Finally, Claimant's spouse refused to sign WPP intake documentation. The case history tends to support that Claimant or her spouse made every effort to circumvent WPP participation. Such evidence is consistent of a refusal to participate with WPP.

201219255/CG

It is found that Claimant's spouse refused to participate in a WPP by refusing to sign a WPP document. As it was not disputed that this was the basis for the FIP benefit termination, it is found that DHS properly terminated FIP benefits for Claimant.

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 1/2012 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).

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.

201219255/CG

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:

