

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

IN THE MATTER OF:



Reg. No.: 201222739
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 23, 2012
County: Wayne 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 23, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits due to Claimant's failure to attend Work Participation Program (WPP).

FINDINGS OF FACT

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

1. On 10/28/11, Claimant applied for FIP benefits.
2. At an unspecified point in the application process, Claimant alleged that she was unable to attend WPP due to medical reasons related to pregnancy.
3. On 11/21/11, DHS held an intake interview with Claimant and gave Claimant an appointment date of 11/28/11 to attend WPP.
4. Also at the 11/21/11 interview, DHS provided Claimant with a DHS-54E so Claimant could verify a medical basis to not participate with WPP.

5. On 11/23/11, Claimant returned the DHS-54E to DHS.
6. DHS denied Claimant's basis for deferral from WPP participation, but did not inform Claimant of the deferral from WPP participation was denied.
7. Claimant did not attend WPP on 11/28/11.
8. On 12/12/11, DHS denied Claimant's application for FIP benefits due to Claimant's failure to attend WPP.
9. On 12/22/11, Claimant requested a hearing to dispute the FIP benefit denial.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

□ The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Federal and state laws require each work eligible individual (WEI) in the FIP and RAPC group to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A at 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. *Id.* Noncompliance by a WEI while the application is pending results in group ineligibility. BEM 233A at 5.

The present case involves a failure by Claimant to attend WPP following a claim for a deferral from WPP participation based on medical reasons related to pregnancy. Clients requesting a deferral from the work participation program due to pregnancy complications must provide verification that indicates that they are unable to participate. BEM 230A at 8.

How DHS processes the returned medical documentation concerning WPP deferral depends on the verification returned by the claimant. In the present case, it was not disputed that Claimant's returned medical documentation allowed Claimant to attend WPP but subject to limitations.

When clients return medical documentation indicating they are work ready with limitations, the DHS specialist is to end the Disability Details record in Bridges. *Id.* at 12. Bridges generates a referral to the work participation program as well as the DHS-4785 once the specialist runs and certifies eligibility. *Id.* The referral to the WPP (i.e. the DHS-4785) gives the applicant an opportunity to attend WPP and presumably serves as notice that the basis for deferral was denied.

It was not disputed that on 11/21/11, Claimant was given an appointment date of 11/28/11 to attend WPP. Claimant was also given a form to verify her medical restrictions, which was returned to DHS on 11/23/11. DHS denied Claimant's basis for the WPP deferral but did not inform Claimant of the denial either by sending Claimant a DHS-4785 or any other document. Thus, Claimant was left to wonder whether she needed to attend WPP.

DHS contended that they were not required to inform Claimant that her WPP deferral was denied. The above policy contradicts the DHS contention. DHS was at least required to generate a DHS-4785 to give Claimant a date to attend WPP after the deferral was denied.

DHS contended that Claimant should have attended WPP on 11/28/11 because she submitted her medical documents prior to that date. If the DHS contention were accurate, then DHS would have no requirement to inform clients to attend WPP after a medical deferral is denied. Such an interpretation of DHS policy would be patently unfair for clients that would logically expect to hear from DHS concerning whether a deferral was approved or not. The interpretation also overlooks the explicit DHS requirement to act after a deferral is denied, not before it is denied.

DHS lastly contended that requiring notice for deferrals would be unreasonable based on the workload of DHS specialists. There is no question that the work expectations of DHS specialists are extraordinarily high. However, high workload expectations are not a valid excuse for failing to comply with DHS regulations.

It was not disputed that the FIP application denial was solely based on Claimant's failure to attend WPP. Accordingly, it is found that DHS improperly denied Claimant's application by failing to send Claimant a DHS-4785 following the denial of a deferral from WPP participation.

It should be noted that DHS testified that Claimant reapplied for FIP benefits in 12/2011 and was WPP compliant. Thus, the below order requires DHS to process Claimant's original application based on a finding that Claimant was WPP compliant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

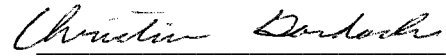
did act properly when .
 did not act properly in denying Claimant's application dated 10/28/11 for FIP benefits.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- (1) reinstate Claimant's FIP benefit application dated 10/28/11;
- (2) process Claimant's FIP benefit application based on the finding that Claimant was compliant with WPP participation;

(3) supplement Claimant for any FIP benefits not received as a result of the improper denial .



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

Date Signed: February 29, 2012

Date Mailed: February 29, 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.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

