

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201226304  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: February 29, 2012  
County: Wayne DHS (43)

**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 29, 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], Specialist, and [REDACTED], Work Participation Program (WPP) representative.

**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 was an ongoing FIP benefit recipient.
2. Claimant was an ongoing WPP participant.
3. Claimant had a 30 hour/week WPP obligation.
4. Claimant stopped attending WPP on 8/26/11.
5. On 12/15/11, DHS mailed Claimant a Notice of Noncompliance (Exhibit 1) scheduling Claimant for a triage on 12/27/11.

6. Claimant failed to attend the triage.
7. On 1/6/12, DHS initiated termination of Claimant's FIP benefit eligibility and reduced Claimant's FAP benefit issuances effective 2/2012 due to Claimant's alleged noncompliance with WPP participation.
8. On 1/13/12, Claimant requested a hearing to dispute the termination of FIP benefits and reduction of FAP benefits.

### **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.

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.*

Participation with a WPP (aka JET or Work First) is an example of an employment related activity. A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fail, 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.*

It was not disputed that Claimant began attendance with WPP beginning 8/22/11. It was also not disputed that Claimant stopped attending WPP after 8/25/11. Claimant made two arguments that affect whether he was obliged to attend or not.

Claimant contended that he was unable to attend at the 8:00 a.m. WPP start time due to public transportation problems. Claimant testified that a WPP representative advised him that he would not be able to enter the building if he could not arrive to the WPP worksite by 8:45 a.m. The WPP representative conceded Claimant's testimony was accurate but added that such clients can perform independent job search in lieu of WPP attendance. She went on to note that Claimant never provided any verification of job search. Claimant responded that he was not aware he could perform independent job search. Based on the presented evidence, it is believed that Claimant was, or should have been, aware of the opportunity to perform job search in lieu of punctually attending WPP.

Claimant also contended that he had physical problems which prevented WPP attendance. There was a lack of evidence that DHS or WPP knew of any medical obstacles to Claimant's WPP attendance. Thus, this issue will be considered in terms of whether Claimant had good cause, rather than whether a basis for noncompliance was established. Based on the presented evidence, DHS established that Claimant's absences from WPP were sufficient to establish noncompliance.

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 contended that he had medical problems which contributed to his failure to attend WPP. Claimant conceded that he has not been found disabled by either Social Security Administration or DHS. Claimant also conceded that he failed to attend a scheduled triage. Claimant testified that he did not attend because he was still awaiting paperwork from his physician which would allegedly have excused Claimant from WPP attendance. Claimant's explanation is generally unacceptable. Even if Claimant did not yet have medical paperwork to excuse him from WPP attendance, it would have been more appropriate to attend than to not attend. Nevertheless, some consideration will be given to Claimant's excuse despite his failure to assert the excuse earlier.

Claimant brought a document from an orthopedic doctor to the hearing. The letter indicated that Claimant is unable to work from 1/25/12-2/25/12 pending test results. The

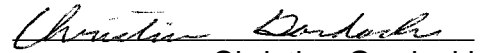
document failed to hint at an excuse for Claimant's WPP absence from 9/2011-12/2011. It is found that Claimant failed to establish good cause for failing to attend WPP.

It was not disputed that FIP benefit termination and FAP benefit reduction were solely based on alleged WPP noncompliance by Claimant. As it is found that Claimant was noncompliant with WPP, it is also found that DHS properly terminated Claimant's FIP benefit eligibility and reduced Claimant's FAP benefit eligibility.

### **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 terminating Claimant's FIP benefit eligibility and reducing Claimant's FAP benefit eligibility effective 2/2012.

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

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

Date Signed: March 2, 2012

Date Mailed: March 2, 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

201226304/CG

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

CG/hw

cc:

