

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

IN THE MATTER OF:



Reg. No.: 201229647
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 8, 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 March 8, 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] s, Manager, [REDACTED], Triage Coordinator, and [REDACTED], JET Coordinator.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility and reduced Claimant's Food Assistance Program (FAP) benefit eligibility 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. On 8/30/11, Claimant was scheduled to attend Work Participation Program (WPP) (see Exhibit 1).
3. Claimant failed to attend WPP following 8/30/11.
4. On 11/21/11, DHS mailed Claimant a Notice of Noncompliance (Exhibit 2) scheduling Claimant for a triage on 12/1/11.

5. Claimant failed to attend the triage.
6. On 12/6/11, DHS initiated termination of Claimant's FIP benefit eligibility and reduced Claimant's FAP benefit issuances effective 1/2012 due to Claimant's alleged noncompliance with WPP participation.
7. On 2/2/12, 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.

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 ACS, 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.

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.*

Claimant contended she attended WPP orientation on 8/30/11; DHS disputed whether Claimant attended WPP on 8/30/11. It was not disputed that Claimant did not attend WPP after 8/30/11. Claimant testified that when she attended WPP on 8/30/11, she was sent home by an unspecified male worker of the WPP because it was uncertain whether she was at the correct WPP site. Claimant also stated that she was told that there was some additional problem concerning whether her DHS specialist sent her on the correct date. Claimant was not able to identify the WPP worker by name.

Claimant's testimony raised several questions in the analysis as to whether Claimant's WPP absences are a basis for noncompliance. Claimant's testimony was completely unverified. Had Claimant provided a name of the individual who allegedly sent her home, there might have been an opportunity to contact the individual so he could provide testimony.

Claimant stated that she was told to come back to WPP in a month and to contact her DHS specialist. Claimant contends that she called her specialist many times between 8/30/11 and the date of triage, but rarely received a return telephone call.

Claimant painted a picture of a very incompetent specialist. Claimant contended her specialist sent her to the wrong WPP location. The testifying Triage Coordinator verified that Claimant was sent to the correct location. Claimant stated that she was sent on an incorrect date and/or she was told that she did not appear in the WPP database. A check of a participant history of welfare registrations listed a 9/3/11 "last date to attend orientation". This date would be consistent with a registration for an 8/30/11 orientation date. Claimant also stated that her specialist failed to return numerous telephone calls. It was not established why a specialist's alleged failure to return telephone calls justified

a several month absence from WPP participation. Based on the presented evidence, it is found that DHS established a basis for noncompliance with WPP participation.

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.

Claimant referenced an auto accident from 9/2011 which impacted her WPP attendance. Claimant referred to a doctor's note which excused her from WPP between 9/24/11 and 9/26/11. Claimant also noted that she had to attend physical therapy appointments twice per week. Claimant's good cause claim failed to address Claimant's absence from WPP from 8/31/11 through 9/23/11. This duration is sufficient to establish noncompliance with WPP participation. Further, a need to attend physical therapy does not equate to a blanket excuse from WPP participation. It is found that Claimant failed to establish good cause.

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*.

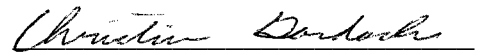
It was not disputed that Claimant failed to attend a triage. Claimant contended she moved at the time the triage notice was sent and she did not receive a notice of the triage. Claimant's previous address was her sister's. It was not disputed that Claimant continued to receive mail at her sister's address following 11/21/11, including a Notice of Case Action that led to Claimant's hearing request. Claimant was given an opportunity to provide good cause at the administrative hearing. As stated above, Claimant did not establish good cause. It is found that DHS followed all necessary procedures in terminating Claimant's FIP benefit eligibility.

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 in reducing Claimant's FAP eligibility and terminating Claimant's FIP benefit eligibility effective 1/2012
 did not act properly when

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 13, 2012

Date Mailed: March 13, 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 to:

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

CG/ hw

cc:

