

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201236133
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 29, 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 29, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant; [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, [REDACTED], Triage Coordinator, and [REDACTED], Work Participation Program (WPP) Representative.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to noncompliance with Work Participation Program (WPP) requirements.

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 obligation to participate with WPP.
4. Claimant stopped participation with WPP beginning the week of 12/11/11.

5. On 1/11/12, Claimant was considered noncompliant with WPP participation.
6. On 1/27/12, a Notice of Noncompliance was mailed to Claimant informing her of a triage scheduled for 2/9/12.
7. On 2/9/12, a triage was held in Claimant's absence,
8. On 2/14/12, DHS initiated termination of Claimant's FIP benefit eligibility due to noncompliance with WPP requirements.
9. On 2/24/12, Claimant requested a hearing to dispute the termination of FIP benefits.

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.*

Participation with 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 failed to attend WPP beginning the week of 12/11/11 and that Claimant was determined to be noncompliant due to poor attendance on 1/11/12. Thus, Claimant's failure to attend WPP for a full one month period was the basis for the finding of noncompliance. This period is sufficient to establish a period of noncompliance.

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.*

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 testified that a lack of transportation prevented her from complying with WPP attendance requirements. Claimant testified that she stopped attending WPP because she could no longer get a ride from her mother. Claimant testified that she does not live sufficiently close to public transportation to make that a reasonable option. A WPP representative testified that the WPP has many clients from Claimant's home city and residential area that utilize public transportation to attend WPP. Testimony was also given that WPP offered a van service to clients and that Claimant could have made her way to WPP utilizing the service. The WPP testimony was credible and persuasive. The evidence also tended to establish that Claimant made no efforts to report any transportation problems to either WPP or DHS. It is found that Claimant did not have good cause for failing to attend WPP due to a lack of transportation.

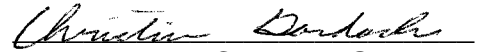
Based on the presented evidence, Claimant failed to establish good cause for the failure to attend WPP. Accordingly, DHS properly found Claimant to be noncompliant with WPP participation.

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, and for the reasons stated on the record, finds that the Department did act properly when terminating Claimant's ongoing FIP benefit eligibility.

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: April 3, 2012

Date Mailed: April 3, 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:

