

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201253326
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 2, 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, an in-person hearing was held on August 2, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] testified on behalf of Claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to a group member's noncompliance with 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 child's father were ongoing FIP benefit recipients.
2. Claimant's child's father was not an ongoing WPP participant.
3. On 2/19/12, DHS mailed Claimant a Work Participation Program Appointment Notice (Exhibit 1) informing Claimant's child's father of an obligation to attend a WPP orientation on 3/9/12.
4. Claimant's father did not attend the 3/9/12 scheduled orientation.

5. On 4/9/12, DHS mailed a Notice of Noncompliance to Claimant's child's father, informing him of a triage meeting to be held on 4/19/12.
6. Claimant's father failed to attend the 4/19/12 triage.
7. On 5/1/12, DHS initiated termination of Claimant's FIP benefit eligibility, effective 6/2012, due to alleged noncompliance with WPP participation by Claimant's child's father.
8. On 5/15/12, Claimant requested a hearing to dispute the FIP benefit termination and an issue concerning Food Assistance Program FAP benefits.
9. Claimant no longer has a FAP benefit issue dispute.

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, 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. Department policies are contained 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.*

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.

DHS contended that Claimant's child's father was noncompliant with WPP participation requirements by failing to attend an orientation and subsequently begin regular WPP attendance. It was not disputed that Claimant's child's father failed to attend WPP. Based on the above list of reasons for noncompliance, DHS established a basis for finding noncompliance with WPP participation.

Claimant's AHR noted that the alleged noncompliance with WPP participation involved Claimant's child's father rather than Claimant, thereby implying that DHS could not adversely affect FIP benefits issued to Claimant. The AHR then conceded that DHS could take such an action. FIP benefit group composition policy (see BEM 210) supports conceding the argument. It is found that DHS can adversely affect Claimant's FIP benefit eligibility due to a failure by a group member to attend WPP.

Claimant stated that her child's father did not attend the scheduled orientation because the notice sent by DHS was not received. Claimant similarly contended that the notice informing her child's father of a subsequent triage was also not received.

JET participants will not be terminated from a JET 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.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).


DHS is known to mail documents through their computer system, Bridges, thereby reducing the element of human error. The mailing address on the notices of WPP orientation and triage matched Claimant's mailing address provided at the hearing. Claimant conceded that her address has not changed since the mailing of the Redetermination. No evidence was presented to raise doubts that either notice was mailed and successfully delivered to Claimant's address.

It is somewhat reasonable to believe that an occasional letter will occasionally not reach the intended addressee. Claimant's argument is less reasonable because she contended that she failed to receive two letters, the notice to attend WPP and the notice of triage. For good measure, it was established that Claimant received the notice informing her of the FIP benefit termination because her hearing was requested on a form that was part of the notice. Based on the presented evidence, the most logical conclusion to draw is that Claimant and her child's father ignored letters concerning WPP obligations and only expressed concern when DHS initiated termination of Claimant's FIP benefit eligibility. It is found that Claimant's child's father was noncompliant with WPP participation.

It was not disputed that the FIP benefit termination was based on the DHS finding that Claimant's child's father was noncompliant with WPP participation. Based on the finding that Claimant's child's father was noncompliant with WPP participation, the DHS termination of FIP benefits is found to be proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility effective 6/2012 based on noncompliance with JET participation. The actions taken by DHS are AFFIRMED.


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

Date Signed: August 3, 2012

Date Mailed: August 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:

