

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201253529  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: June 14, 2012  
County: Wayne DHS (35)

**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 June 14, 2012 from Detroit, Michigan. Participants included the above named claimant. 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 and reduced Claimant's Food Assistance Program (FAP) benefit eligibility due to Claimant's alleged 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 was an ongoing FIP benefit recipient.
2. Claimant was not an ongoing WPP participant.
3. On 2/23/12, DHS mailed Claimant a letter informing her of an obligation to attend a WPP orientation on 3/5/12.
4. Claimant failed to receive the letter informing her of the obligation to attend WPP orientation.

5. On 4/30/12, DHS mailed a Notice of Noncompliance to Claimant informing Claimant of a triage meeting to be held on 5/8/12.
6. Claimant failed to attend the 5/8/12 triage.
7. On 4/30/12, DHS initiated termination of Claimant's FIP benefit eligibility and reduced Claimant's Food Assistance Program (FAP) benefit eligibility effective 6/2012 due to Claimant's alleged noncompliance with WPP participation.
8. On 5/8/12/12, Claimant requested a hearing to dispute the FIP benefit termination and FAP benefit reduction.

### **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.

It was not disputed that DHS mailed Claimant a notice to restart WPP attendance beginning 3/5/12. It was also not disputed that Claimant failed to attend the scheduled WPP orientation. Based on the above list of reasons for noncompliance, missing a single date of WPP attendance could be construed as WPP noncompliance by not appearing and participating with WPP or as a failure to appear for a scheduled appointment.

Claimant testified that she wanted to attend WPP but that she did not receive the DHS letter notifying her of the orientation. 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).

Claimant testified that she has been living in transitional shelter housing with approximately 30 other persons and there have been problems in receiving mail. Her testimony concerning this issue was credible.

The testifying DHS specialist noted that Claimant's history with WPP was generally not representative of a client that was trying to avoid WPP participation. It was not disputed that Claimant was a compliant WPP attendee for an unspecified period of time prior to receiving a temporary deferral from WPP attendance due to shelter problems. Claimant's compliant WPP history is somewhat persuasive of a finding that Claimant failed to attend WPP through no fault of her own.

Claimant failed to attend a triage scheduled for 5/8/12. Claimant stated she received notice of the triage shortly before the triage date and that she attempted to fax a request changing the date of the triage. Claimant stated that original fax did not properly transmit and that second fax was sent after the triage was held. Generally, clients that fail to attend a triage because of negligence are more likely to be at fault for a failure to attend WPP orientation.

Based on the presented evidence, it is slightly more likely than not that Claimant did not receive a notice to attend WPP orientation. Though the fault is not believed to be attributable to DHS, it cannot be found that Claimant was noncompliant with WPP participation if Claimant did not know of the obligation to attend WPP orientation. Accordingly, it is found that Claimant was not noncompliant with WPP participation.

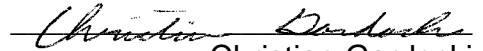
It was not disputed that the 6/2012 FIP benefit termination and FAP benefit reduction were based on the DHS finding that Claimant was noncompliant with WPP participation. Based on the finding that Claimant established that she was not noncompliant with WPP participation, it is found that DHS improperly 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, finds that DHS improperly terminated Claimant's FIP benefit eligibility effective 6/2012. It is ordered that DHS:

- (1) recalculate Claimant's ongoing FIP and FAP benefit eligibility effective 6/2012 subject to the finding that Claimant was not noncompliant with WPP participation;
- (2) supplement Claimant for any benefits lost as a result of the determination that Claimant was WPP noncompliant; and
- (3) remove any disqualification from Claimant's disqualification history as a result of the determination of noncompliance.

The actions taken by DHS are REVERSED.

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

Date Signed: June 21, 2012

Date Mailed: June 21, 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:

