

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

IN THE MATTER OF:



Reg. No.: 201267463
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: October 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 October 8, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUES

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) 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. Claimant was not an ongoing WPP participant.
3. On 5/1/12, DHS mailed Claimant a notice to attend WPP orientation on 5/14/12.
4. Claimant failed to attend the orientation.
5. On 6/20/12, DHS mailed Claimant notice of a triage meeting to be held on 7/12/12.

6. On 6/28/12, DHS mailed Claimant a notice to attend Work Participation Program on 7/16/12.
7. On 7/12/12, Claimant failed to attend the triage and DHS determined that Claimant was noncompliant with WPP participation.
8. On 7/16/12, Claimant again did not attend the WPP orientation.
9. On 7/19/12, DHS initiated termination of Claimant's FIP benefit eligibility effective 8/2012.
10. On 7/30/12, Claimant requested a hearing to dispute the FIP benefit termination.

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 (5/2012), p. 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 (*Id.*, p. 1-2):

- 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 Claimant failed to attend a WPP orientation scheduled for 5/14/12. It was also not disputed that Claimant made no efforts to attend WPP after 5/14/12. Though it was not a basis for the eventual finding of noncompliance by DHS, Claimant also failed to attend an orientation that was scheduled for 7/16/12. Claimant's failure to commence WPP participation is sufficient basis for a finding 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*.

It was not disputed that Claimant also failed to attend a triage scheduled on 7/12/12. Despite Claimant's absence, Claimant was given an opportunity at the hearing to establish good cause.

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.

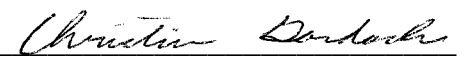
Claimant noted that she attended WPP in 8/2012 for one week. Claimant seemed to suggest that her attendance satisfied her WPP obligation. Claimant's contention of "better late than never" is not a persuasive argument. Claimant was sent to WPP in 5/2012. Claimant's one week of WPP attendance in 8/2012 fails to address why Claimant did not attend when she was initially referred.

Claimant testified that she had three kids and was unable to attend WPP. Claimant stated she made telephone calls to her worker without getting a return call. Claimant stated that she did not have a vehicle to get to WPP. Claimant never alleged that she lacked child care, she merely implied that having three kids was a reason to not attend WPP. Claimant never explained why a lack of a return phone call from her specialist affected Claimant's ability to attend WPP. Claimant also failed to explain why public transportation was not a reasonable option if she lacked a vehicle. Had Claimant tied the excuses into specifics perhaps more consideration would have been given for a good cause analysis. Based on the presented evidence, Claimant failed to establish good cause for not attending WPP. Accordingly, DHS properly found Claimant to be noncompliant with WPP participation.

It was not disputed that the 8/2012 FIP benefit termination was based on Claimant's noncompliance with an employment-related activity. Based on the finding that Claimant was noncompliant in WPP participation, the 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 8/2012, based on Claimant's noncompliance with WPP participation. The actions taken by DHS are AFFIRMED.


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

Date Signed: 10/15/2012

Date Mailed: 10/15/2012

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:

