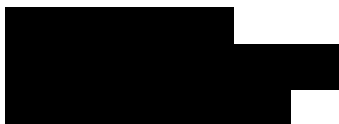


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 201221140
Issue No. 1038
Case No. [REDACTED]
Hearing Date: January 25, 2012
Wayne County 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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 25, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits due to Claimant's failure to attend Work Participation Program (WPP).

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On an unspecified date, Claimant applied for FIP benefits.
2. On 11/28/11, DHS mailed Claimant a Work Participation Program Appointment Notice (Exhibit 2) informing Claimant to attend a WPP orientation scheduled for 12/5/11.
3. On 12/5/11, Claimant attended the WPP orientation and sought a deferral from WPP participation due to disability.

4. On 12/8//11, DHS denied Claimant's application for FIP benefits due to Claimant's failure to continue WPP participation or verify a basis for WPP deferral (see Exhibit 3).
5. On 12/16/11, Claimant requested an administrative hearing to dispute the FIP benefit application denial.

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 FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. Department 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.*

A Work Eligible Individual (WEI) and non-WEIs (except ineligible grantees, clients deferred for lack of child care, and disqualified aliens), who fails, 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.*

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 at 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or the work participation program for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. *Id.* at 10. This may include those who have applied for RSDI/SSI. *Id.* Determination of a long term disability is a two step process. *Id.* The client must fully cooperate with both steps. *Id.*

The first step involves verification of the disability. Once a client claims a disability he/she must provide DHS with verification of the disability when requested. *Id.* The verification must indicate that the disability will last longer than 90 calendar days. *Id.* If the verification is not returned, a disability is not established. *Id.* The client will be required to fully participate in the work participation program as a mandatory participant. *Id.* A DHS-54-E is an acceptable verification of disability. *Id.* at 20.

In the present case, Claimant returned a DHS-54-E (Exhibit 1) in an attempt to verify existence of a disability. The form verified several limitations on Claimant's abilities to work, including: never lifting/carrying 10 pounds or a heavier weight, occasionally lifting/carrying less than 10 pounds, standing or walking less than two hours in an eight hour day and a need for assistance with shopping, laundry and housework. The form did not identify any sitting limitations. The physician completing the form did not answer whether Claimant could work at his usual occupation or any other job.

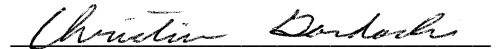
DHS testified that Claimant returned the form following the denial of FIP benefits. DHS also stated that even if the form was considered in the denial of FIP benefits, it would have been insufficient, primarily because Claimant's physician failed to address whether Claimant could work at any job. The DHS argument was persuasive. Of all of the questions listed on the DHS-54-E, whether the client is capable of working at any job is probably the most insightful to the client's ability to attend WPP. The failure by the physician to answer this question makes it extremely difficult for DHS to assess a client's ability to attend WPP.

It is conceivable that other information on the DHS-54-E could lead DHS to answer whether Claimant could work at any job. For example, if a client had sitting restrictions of less than 6 hours (in an 8 hour workday) and standing restrictions of less two hours, it would be unreasonable to expect a client to work at any eight hour job; this conclusion reasonably equates to a conclusion that Claimant could not be expected to participate with WPP. However, because Claimant had no such sitting restrictions, it can not be deduced that Claimant is incapable of attending WPP. Though Claimant had notable restrictions, they were not sufficient to presume an inability to participate with the relatively sedentary and accommodating nature of WPP attendance.

Based on the presented evidence, it is found that Claimant failed to establish a basis for deferral from WPP participation. Without a basis for WPP deferral, Claimant would have been expected to continue WPP participation beyond the orientation date. Claimant's failure to do so is a proper basis to deny the FIP benefit application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's application for FIP benefits. The actions taken by DHS are AFFIRMED.


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

Date Signed: January 27, 2012

Date Mailed: January 27, 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

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cc:

