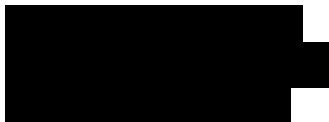


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201222081
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 1, 2012
Wayne County 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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on February 1, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED] Work Participation Program (WPP) Representative, appeared and testified.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits 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 10/12/11, Claimant attended an intake at WPP and was advised to return the following Monday to begin WPP participation.
4. At the intake, Claimant was advised of how to apply for Child Development and Care (CDC) benefits, including information on how to find a conveniently located and licensed CDC provider.

5. For unspecified reasons, Claimant was allowed to attend WPP as late as 10/31/11.
6. Claimant failed to return to WPP.
7. On 11/15/11, DHS mailed Claimant a Notice of Noncompliance (Exhibit 1) scheduling Claimant for a triage on 11/21/11.
8. Claimant failed to attend the triage.
9. On 12/15/11, DHS initiated termination of Claimant's FIP benefits.
10. On 12/27/11, 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.*

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.*

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 Claimant attended an intake appointment with WPP on 10/12/11. It was not disputed that Claimant was informed to return to WPP on the subsequent Monday (10/17/11). It was also not disputed that Claimant failed to return to WPP on 10/17/11 but was given as late as 10/31/11 to commence her ongoing WPP attendance. Claimant failed to return to WPP on 10/17/11, 10/31/11 or any date thereafter. Claimant's failure to attend WPP after her intake is sufficient to establish a basis for noncompliance.

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.

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*.

Claimant testified that she wanted to attend WPP on 10/17/11 and 10/31/11 but could not do so due to the effort involved in taking a bus to drop off her child with the babysitter. A lack of day care or an inability to find a reasonably located CDC provider may amount to good cause for WPP absences. The WPP representative testified that at intake, clients are routinely provided an opportunity to apply for CDC benefits and provided information on how to select a conveniently located CDC provider. Claimant denied that such information was given, but the testimony of the WPP representative was persuasive.

Claimant's excuse for her failure to attend WPP would have been more plausible if there was more than one day of attendance by Claimant. Under the circumstances of Claimant's single day of attendance, Claimant's excuse lacked credibility.

Claimant also contended that she failed to receive notice of the triage until after the triage was held. Even if Claimant's testimony was accurate, Claimant was given an opportunity to establish good cause at the administrative hearing, but failed to do so. It is found that Claimant's allegation that she did not timely receive notice of the triage is not relevant to the good cause finding.

Based on the presented evidence, DHS established noncompliance with WPP participation by Claimant. Claimant failed to establish good cause for noncompliance. It was not disputed that WPP noncompliance was the sole basis for the FIP benefit termination. Accordingly, the FIP benefit termination was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated FIP benefits based on 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: February 8, 2012

Date Mailed: February 8, 2012

201222081/CG

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:

