

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

IN THE MATTER OF:



Reg. No.: 201238031
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: May 3, 2012
County: Monroe County DHS

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 May 3, 2012, from Monroe, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

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 11/10/11, Client applied for FIP benefits.
2. On 11/10/11, DHS mailed Claimant a Work Participation Program Appointment Notice scheduling Claimant to attend WPP on 11/21/11 at 8:30 a.m.
3. Claimant reported to DHS that she was high-risk pregnant and possibly eligible for a deferral from WPP participation.
4. On 11/10/11, DHS sent Claimant a Medical Needs-JET form (DHS-54-E) to be completed by Claimant's physician.

5. On 11/21/11, Claimant returned a completed DHS-54-E (Exhibit 1) to DHS.
6. The DHS-54-E noted Claimant "can do 20 hour work week".
7. Claimant failed to attend the 11/21/11 WPP appointment.
8. On 12/5/11, DHS mailed a Notice of Case Action to Claimant informing Claimant of the FIP benefit denial.
9. On 3/1/12, Claimant requested a hearing to dispute the FIP benefit 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 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).

Federal and state laws require each work eligible individual (WEI) in the FIP and RAPC 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 230A at 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *Id.*

A WEI who refuses, without good cause, to participate in assigned employment and/or other self-sufficiency related activities is subject to penalties. *Id.* Noncompliance by a WEI while the application is pending results in group ineligibility. BEM 233A at 5.

The present case involves a failure by Claimant to attend WPP following a claim for a deferral from WPP participation based on medical reasons related to pregnancy. Clients requesting a deferral from the Work Participation Program due to pregnancy complications must provide verification that indicates that they are unable to participate. BEM 230A at 8.

On 11/21/11, Claimant returned a Medical Needs- JET document (Exhibit 1) which verified Claimant's capabilities. The physician completed document noted that Claimant was capable of working a 20 hour work week. This was persuasive evidence that Claimant was capable of attending WPP for up to 20 hours per work week.

It was not disputed that on 11/10/11, DHS scheduled Claimant for a WPP appointment for 11/21/11, the same date Claimant returned the Medical Needs- JET document to DHS. It was initially thought that DHS satisfied their procedural requirements because it was established that DHS gave Claimant an appointment to attend WPP, Claimant failed to attend WPP and Claimant failed to establish a basis for deferral from WPP. The initial thought was premature.

DHS has specific policies to follow when a request for temporary deferral from WPP is denied (see BEM 230A at 15-16). In such cases, DHS is instructed to:

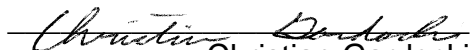
- document the basis of the decision including any limitations or restrictions in the FSSP under the Barriers and Referrals tab.
- advise and schedule an appointment with the Work Participation Program.
- refer the client to the Work Participation Program, providing information on any limitations to full participation using additional information and case notes when sending the referral.

Claimant was given an opportunity to attend WPP prior to DHS evaluating her basis for deferral but she was not sent following the denial of the deferral. The requirement makes sense because a client cannot really know if there is a need to attend WPP until DHS denies the basis for deferral. The failure by DHS to send Claimant to WPP after the deferral denial is a sufficient basis to reverse the denial of Claimant's FIP benefit application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FIP benefits. It is ordered that DHS:

1. reinstate Claimant's FIP benefit application dated 11/10/11;
2. process Claimant's application subject to the finding that Claimant was not referred to WPP following the denial of Claimant's request for WPP deferral; and
3. supplement Claimant for any benefits not received as a result of the improper application denial.


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

Date Signed: May 15, 2012

Date Mailed: May 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

