

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201239987
Issue No.: 1000
Case No.: [REDACTED]
Hearing Date: April 11, 2012
County: Wayne DHS (76)

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 April 11, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant and [REDACTED]. Participants on behalf of Department of Human Services (DHS) included [REDACTED] Specialist, and [REDACTED], Specialist.

ISSUE

The issue is whether a denial for a deferral from Work Participation Program WPP is an issue appropriate for administrative hearing review.

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 and his spouse were ongoing Family Independence Program (FIP) recipients.
2. Claimant and his spouse reported to DHS that they were unable to attend WPP due to various impairments.
3. On an unspecified date, DHS denied Claimant's and his spouse's deferral from WPP participation.
4. On 3/15/12, Claimant requested a hearing to dispute the denial of his and his wife's deferral from WPP participation.

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.

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. BEM 230A at 10. After analysis of a person's evidence supporting disability, DHS determines whether the person is capable of attending WPP (see *Id.* at 12). In the present case, Claimant requested a hearing to dispute the denial of a WPP deferral.

DHS regulations list what issues are appropriate for administrative hearing. The Michigan Administrative Hearings System (MAHS) may grant a hearing about any of the following (see BAM 600 at 3):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service;
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- for the current level of benefits or denial of expedited service (Food benefits only).

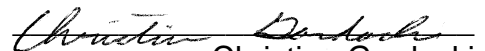
A denial of a WPP deferral does not fall into any of the above listed reasons for which an administrative hearing may be granted. If DHS sent Claimant to WPP and some failure by Claimant in attending WPP resulted in an adverse action taken to Claimant's FIP benefit eligibility, then an issue for administrative review would have arisen. It was not disputed that as of 4/11/12, the date of the administrative hearing, DHS had not yet taken any adverse actions to Claimant's FIP benefit eligibility as a result of the WPP deferral denial.

DHS further clarify the issue of administrative hearings and WPP deferrals elsewhere in their regulations. When a deferral is not granted, it is not a loss of benefits, termination or negative action. BEM 230A at 16. When a client requests a hearing based on not being granted a deferral, DHS is advised to be sure to advise the client at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the administrative law judge the action did not result in a loss of benefits or services. *Id.* DHS is to be sure the client understands that the right time to file a hearing is once he/she receives a notice of negative action for noncompliance. *Id.*

As the only dispute involves whether Claimant and his spouse should be deferred from WPP participation, there are no issues appropriate for administrative review. Accordingly, Claimant's hearing request is dismissed. If DHS takes an action affecting Claimant's FIP benefit eligibility at some point in the future, Claimant may then request a hearing to dispute the adverse action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the denial of Claimant's request for deferral from WPP participation is not an appropriate basis for an administrative hearing. Claimant's request for hearing is DISMISSED.


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

Date Signed: April 16, 2012

Date Mailed: April 16, 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:

