

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201243647  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: May 7, 2012  
County: Wayne DHS (57)

**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 March 2, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, [REDACTED], [REDACTED], Manager, and [REDACTED], Work Participation Program (WPP) representative.

**ISSUE**

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to Claimant's alleged noncompliance with 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. Claimant had a 20 hour/week WPP obligation.
4. On an unspecified date, DHS referred Claimant to attend WPP beginning 2/6/12.
5. Claimant failed to attend WPP on 2/6/12.

6. On 3/5/12, DHS mailed a Notice of Noncompliance (Exhibit 1) to Claimant scheduling Claimant for a triage to be held on 3/15/12.
7. Claimant failed to attend the 3/15/12 triage.
8. On 3/15/12, DHS initiated termination of Claimant's FIP benefit eligibility due to alleged noncompliance with WPP participation.
9. On 3/26/12, 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 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. 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:

- 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 DHS mailed Claimant a notice to restart WPP attendance beginning 2/6/12. It was also not disputed that Claimant failed to attend WPP on 2/6/12. Based on the above list of reasons for noncompliance, missing a single date of WPP attendance could be construed to be noncompliance. It could be reasonably argued that the absence qualifies as not appearing and participating with WPP or as a failure to appear for a scheduled appointment.

A client's participation in an unpaid work activity may be interrupted by occasional illness or unavoidable event. BEM 230A at 18. A WEI's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.*

The DHS policy allowing up to 16 hours per month of WPP absences tends to support finding that a client can miss one date of WPP attendance as long as that absence does not push the client above the 16 hour/month or 80/twelve month absence limits. In the present case, there was no evidence that Claimant's 2/6/12 absence from WPP pushed Claimant above either the one month or twelve month excuse absence allowance. This tends to support a finding that Claimant was not noncompliant if it is found that the absence was the result of an illness or unavoidable event.

It should be noted that the excused absence allowance appears to be a different consideration from a good cause consideration, which is discussed below. DHS has completely separate policy sections between excused absences and good cause.

It was not disputed that Claimant's 2/6/12 absence was an orientation date to restart WPP. It was essentially her first day of WPP participation. There is significance in missing a first day to attend WPP. Though some DHS policy supports finding that one missed date of WPP can be an excused absence, it is found that Claimant's failure to attend WPP is a basis for noncompliance. This finding does not prevent Claimant from establishing good cause for the absence.

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.

JET participants will not be terminated from a JET 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*.

Looking at the triage issue, DHS established all necessary requirements for holding a triage. It was not disputed that Claimant failed to attend the triage scheduled by DHS for 3/15/12. Claimant contended that she did not receive notice of the triage (see Exhibit 1). Claimant failed to present any evidence supporting that she had any issues which would have prevented her from receiving a correctly mailed document. Despite a finding that Claimant should have received notice of the triage, Claimant had the opportunity to establish good cause at the administrative hearing; thus, Claimant was not harmed by missing the triage.

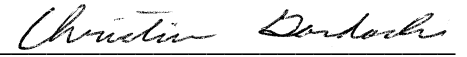
Claimant alleged that she failed to attend WPP on 2/6/12 because she was in a vehicle accident on 1/27/12. Claimant clarified that as of 2/7/12, she was still in a condition that would prevent her WPP attendance so quickly after the accident. As proof of her claim of good cause, Claimant showed DHS a copy of a prescription for a pain medication; the prescription was dated 4/18/12. Claimant's evidence neither verified a vehicle accident occurred nor that she was in such a poor condition from the accident that she was unable to attend WPP. It is found that Claimant failed to verify a basis for good cause for WPP noncompliance.

It was not disputed that the 4/2012 FIP benefit termination was due to WPP noncompliance. As DHS established that Claimant was noncompliant with WPP, it is found that DHS properly terminated Claimant's FIP benefit eligibility.

### **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 benefits effective 4/2012 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: 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 to:

Michigan Administrative hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

CG/hw

cc:

