

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201263284
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 6, 2012
County: Macomb DHS (12)

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 August 6, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], JET Liaison, and [REDACTED], Specialist.

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 an ongoing WPP participant.
3. Claimant had a 20 hour/week obligation to attend WPP.
4. Claimant attended WPP for the following weeks and hours:
 - week beginning 4/29/12 for 10 hours;
 - week beginning 5/6/12 for 0 hours;
 - week beginning 5/13/12 for 11.5 hours
 - week beginning 5/20/12 for 36 hours

- week beginning 5/27/12 for 9 hours
5. On an unspecified date, Claimant was considered noncompliant with WPP attendance.
 6. On 6/11/12, DHS mailed a Notice of Noncompliance to Claimant informing Claimant of a triage meeting to be held on 6/21/12.
 7. Claimant failed to attend the 6/21/12 triage and DHS determined that Claimant had no good cause for WPP noncompliance.
 8. On 6/21/12, DHS initiated termination of Claimant's FIP benefit eligibility, effective 8/2012 due to WPP noncompliance.
 9. On 6/29/12, Claimant requested a hearing to dispute the FIP benefit termination and a Food Assistance Program (FAP) benefit action.
 10. Claimant testified that she has no current FAP benefit dispute.

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 Claimant attended WPP for a total of 66.5 hours over the course of a five week period starting on 4/29/12. It was not disputed that Claimant had a minimum of a 20 hour/week WPP attendance obligation. DHS framed Claimant's alleged WPP participation noncompliance in terms of Claimant's attendance requirements for 5/2012 even though part of the five week period included dates from 4/2012 and 6/2012; it was not adequately clarified why DHS and/or WPP counted five full weeks as part of Claimant's 5/2012 attendance requirement. Nevertheless, it was established that Claimant failed to meet 33.5 hours over that five week period. The absences were sufficient to establish a basis for employment-related activity noncompliance.

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*.

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.

In explaining her WPP absences, Claimant made two excuses. First, Claimant stated that she was sent home early by the MWA when her child that she brought to WPP was crying too much. Claimant's testimony was not verified, though it is not practical testimony to verify.

Claimant also testified that she was absent for an entire week of WPP because she was hospitalized. The testifying JET Liaison noted that there was no indication that Claimant reported or verified the hospitalization to WPP. Claimant failed to bring verification of her hospitalization to the hearing.

Claimant was given two additional days to supply the documentation. If Claimant could verify that she was hospitalized for a full week, that would be persuasive evidence of good cause and that WPP/DHS failed to honor Claimant's good cause during the triage; this conclusion presumes that Claimant reported and/or verified the hospitalization to WPP- a likely scenario for someone who had missed an entire week of WPP participation. If Claimant failed to verify the hospitalization that would be persuasive evidence that Claimant's testimony was fabricated or at least that Claimant was negligent in verifying and/or reporting good cause; this would naturally lead to a finding that Claimant had no good cause for her WPP absences.

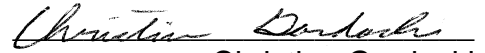
Two full days after the hearing, Claimant failed to submit any documentation supporting her claim of good cause. Accordingly, it is found that Claimant lacked good cause for her WPP absences and that DHS established that Claimant was noncompliant with employment-related activity.

It was not disputed that the 8/2012 FIP benefit termination was based on Claimant's noncompliance with an employment-related activity. Based on the finding that Claimant was noncompliant, the DHS termination of FIP benefits is found to be proper.

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 benefit eligibility effective 8/2012 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: August 13, 2012

Date Mailed: August 14, 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:

