

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201263452
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: August 16, 2012
County: Wayne DHS (18)

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 16, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, 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 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 an unspecified date, DHS sent Claimant a notice to attend WPP on 4/9/12.
4. DHS gave Claimant a second date to attend WPP for 4/16/12.
5. On 4/16/12, Claimant attended WPP but was turned away due to an error in the registration process.

6. On 4/23/12, DHS mailed Claimant a Notice of Noncompliance scheduling a triage for 5/3/12.
7. On 5/3/12, DHS determined that Claimant had no cause for failing to attend WPP orientation.
8. On 5/10/12, DHS initiated termination of Claimant's FIP benefit eligibility effective 6/2012 due to Claimant's alleged noncompliance with WPP participation.
9. On 7/5/12, 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 two notices to start WPP attendance. Claimant stated that she attended WPP orientation on 4/9/12 but was turned away for being five minutes late. For purposes of this decision, the WPP orientation dated 4/9/12 is irrelevant because the issue of Claimant's alleged noncompliance can rest on a second WPP orientation appointment scheduled for 4/16/12.

Claimant stated that she timely attended a WPP orientation on 4/16/12 and was turned away by WPP because of an error in the registration system. DHS cited case notes by a WPP worker who noted that there was reason to believe that Claimant was registered and should not have been turned away; the DHS testimony implied that Claimant's testimony was unsupported by evidence. The DHS testimony was based on hearsay statements though it was given some probative value.

Claimant identified the WPP representative who turned her away; an unsuccessful phone call was placed during the hearing in an attempt to discuss the matter with the WPP representative.

Claimant also testified that immediately after she was turned away, she went to DHS to discuss the registration problem with her specialist. The DHS specialist was available later in the hearing and confirmed Claimant's testimony.

It is theoretically possible that Claimant fabricated the WPP orientation registration problem and attended DHS on the morning that she was to attend WPP orientation in an attempt to cover up some attendance shortcoming. The much more reasonable conclusion is that Claimant's testimony was credible. It is found that Claimant attended WPP orientation on 4/16/12 but was turned away through no fault of her own.

The only basis for WPP noncompliance by Claimant was Claimant's alleged failure to attend WPP orientation. As it is found that Claimant attended WPP orientation, it is also found that Claimant was improperly found by DHS as noncompliant with WPP activities. It was not disputed that the FIP benefit termination was solely based on alleged WPP


noncompliance by Claimant. Accordingly, it is found that DHS improperly terminated Claimant's FIP benefit eligibility effective 6/2012.

DECISION AND ORDER

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

- (1) reinstate Claimant's FIP benefits effective 6/2012;
- (2) process Claimant's ongoing eligibility subject to the finding that Claimant was compliant with WPP participation;
- (3) supplement Claimant for any benefits lost as a result of the improper finding of noncompliance; and
- (4) remove any disqualification from Claimant's disqualification history as a result of the improper finding of noncompliance.

The actions taken by DHS are REVERSED.


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

Date Signed: August 17, 2012

Date Mailed: August 17, 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:

