

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

IN THE MATTER OF:



Reg. No.: 201265084
Issue No.: 1038, 3008
Case No.: [REDACTED]
Hearing Date: September 5, 2012
County: Wayne DHS (41)

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 September 5, 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 and reduced Claimant's Food Assistance Program benefit eligibility due to an alleged failure by Claimant to comply with Work Participation Program (WPP) requirements.

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 and FAP benefit recipient.
2. Claimant was an ongoing WPP participant.
3. Claimant's WPP obligation was 20 hours/week.
4. On 4/11/12, Claimant stopped attending WPP.
5. On an unspecified date, Claimant submitted a Medical Needs form to WPP.

6. The Medical Needs form was completed by Claimant's physician noted that Claimant was pregnant and unable to perform employment.
7. On 6/27/12, DHS mailed Claimant a Notice of Noncompliance (Exhibit 1) informing Claimant of a triage appointment for 7/5/12.
8. Claimant failed to attend the triage.
9. DHS determined that Claimant had no good cause for ceasing attendance at WPP.
10. On 7/6/12, DHS initiated termination of Claimant's FIP benefit eligibility, effective 8/2012, due to alleged noncompliance with WPP participation.
11. On 7/6/12, DHS initiated a reduction of Claimant's FAP benefit eligibility, effective 8/2012, due to alleged noncompliance with WPP participation.
12. On 7/17/12, Claimant requested a hearing to dispute the adverse actions taken to her FIP and FAP benefit eligibility.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp Program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 (5/2012), p. 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 (see *Id.*, pp. 1-2):

- 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.

DHS contended that Claimant was noncompliant with WPP participation requirements by ceasing participation with WP after 4/11/12. Claimant did not dispute that she stopped attending WPP after 4/11/12. Claimant's stopped attendance is sufficient to establish a basis for noncompliance with WPP participation.

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. BEM 233A (5/2012), p 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.*, p. 4. A claim of good cause must be verified. *Id.*, p. 3.

Claimant stated that she ceased her WPP attendance after she submitted a Medical Needs form to her assigned WPP worker. Claimant stated that the purpose of the form was to verify a medical basis for deferral from WPP participation based on 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 (12/2011), p. 11. A Medical Needs form (DHS-54A) is an acceptable form of verification. *Id.*, p. 20. A person with a condition or impairment that is pregnancy-related must be deferred for a problem pregnancy. *Id.*, p. 11.

Two issues were raised because of the Medical Needs form. First, it was not disputed that Claimant submitted the Medical Needs form only to her WPP worker and not her DHS specialist. The testifying specialists noted that they were not aware of any Medical Needs form submission prior to the hearing, thereby implying that Claimant should have submitted the form to DHS. DHS chose to utilize contracted agencies as part of their procedures. DHS cannot justly complain when there is a lack of communication between contracting agencies and themselves. It is found that Claimant's submission of the Medical Needs form to her WPP worker equated to a submission to DHS.

The testifying DHS specialists who saw the Medical Needs form for the first time at the hearing noted that the form was not as complete as it should have been. The specialists conceded that the form verified a pregnancy and that Claimant's physician determined that Claimant was unable to work. The specialists were particularly concerned that the form failed to note for how long Claimant would be unable to work. The DHS concern is not relevant in the present case because the form was sufficient to establish a basis for deferral from WPP for the time that Claimant was allegedly noncompliant.

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.* p. 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.* p. 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.*

It was not disputed that DHS mailed Claimant a Notice of Noncompliance (Exhibit 1) scheduling a triage for 7/5/12. It was also not disputed that Claimant failed to attend the triage appointment. Claimant contended that she did not receive the Notice of Noncompliance even though the mailing address on the form matched Claimant's mailing address. The triage is a meeting with a sole purpose of discussing reasons for failing to comply with WPP requirements. It could be reasonably contended that Claimant forfeited her right to assert good cause by not attending the triage. Though that option was considered, the present case does not justify supporting such a contention. Had DHS honored Claimant's basis for deferral in the first place, there would have been no need for a triage. It would be unjust to uphold an inappropriate

finding of noncompliance because of a subsequent procedural failure by Claimant. It is found that Claimant's failure to attend the triage is not fatal to Claimant's assertion of good cause.

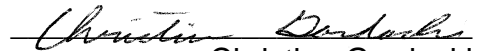
Based on the presented evidence, it is found that Claimant had good cause for her failure to attend WPP and that Claimant was compliant with WPP participation. It was not disputed that the finding of noncompliance was the sole basis for the FIP benefit termination and FAP benefit reduction. Accordingly, the adverse actions taken to Claimant's FAP and FIP benefit eligibility are found to be improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the adverse actions taken to Claimant's FAP and FIP eligibility were improper. It is ordered that DHS:

- (1) reinstate Claimant's FIP benefit eligibility, effective 8/2012, subject to the finding that Claimant was not noncompliant with WPP participation;
- (2) redetermine Claimant's FAP benefit eligibility, effective 8/2012, subject to the finding that Claimant was not noncompliant with WPP participation;
- (3) supplement Claimant for any benefits lost as a result of the improper finding of noncompliance;
- (4) remove any disqualification from Claimant's 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: September 12, 2012

Date Mailed: September 12, 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:

