

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

IN THE MATTER OF:



Reg. No.: 201276982
Issue No.: 1038 6019
Case No.: [REDACTED]
Hearing Date: October 15, 2012
County: Wayne DHS (15)

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 October 15, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist and [REDACTED] Specialist.

ISSUES

The first 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.

The second issue is whether DHS properly terminated Claimant's eligibility for Child Development and Care (CDC) benefits due to an alleged failure to return a Redetermination to DHS.

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 CDC benefit recipient.
2. Claimant was not an ongoing WPP participant.
3. On an unspecified date, DHS mailed Claimant a notice informing her of an appointment to attend a WPP orientation scheduled for 4/7/12.

4. Claimant did not attend the WPP appointment.
5. On 6/18/12, DHS mailed Claimant notice of a triage meeting to be held on 6/25/12.
6. Claimant failed to attend the triage.
7. DHS determined that Claimant was noncompliant with WPP participation.
8. On an unspecified date, DHS initiated termination of Claimant's FIP benefit eligibility.
9. On an unspecified date, DHS mailed Claimant a Redetermination concerning redetermination of CDC benefits.
10. Claimant failed to return the Redetermination to DHS.
11. On 8/20/12, DHS initiated termination of Claimant's CDC benefit eligibility effective pay period beginning 9/9/12.
12. On 9/5/12, Claimant requested a hearing to dispute the FIP and CDC benefit terminations.

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 (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:

- 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 failed to attend a WPP orientation scheduled for 4/7/12. Claimant stated that she was told by her assigned specialist that she need not attend the orientation because she was enrolled in manicurist school. Claimant's specialist could not recall any specific conversations with Claimant, but stated that he would not have excused a client from attending orientation for attending manicurist school. He also stated that he is a 30 year DHS employee and very familiar with FIP policy which does not excuse WPP attendance for manicurist school attendance.

It is impossible to know with certainty what was stated between Claimant and her specialist. The specialist's testimony seemed particularly credible in that he identified policy such as excusing clients due to high school attendance. The specialist also cited WPP policies which do not allow attendance deferrals for obtainment of a college degree. Generally, the specialist's testimony was more persuasive than Claimant's. Further analysis on the issue will be made below.

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.

Claimant did not assert a claim of good cause, just that she was told by DHS that she did not have to attend the orientation. It was not disputed that Claimant failed to attend the triage scheduled for 6/25/12. It would seem that a client who was advised that she need not attend WPP would have attended the triage to raise this very point. Based on the testimony of the specialist and Claimant's failure to attend the triage, it is found that Claimant was not told by DHS that she was excused from WPP attendance. Accordingly, the DHS finding of noncompliance is found to be proper.

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

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

DHS must periodically redetermine an individual's eligibility for active benefit programs. BAM 210 (5/2012), p. 1. A complete redetermination is required at least every 12 months. *Id*. The redetermination process begins with DHS mailing a redetermination packet in the month prior to the end of the benefit period. *Id* at 4. The packet consists of forms and requests for verification that are necessary for DHS to process the redetermination. The forms needed for redetermination may vary, though a Redetermination (DHS-1010) is an acceptable review form for all programs. Verifications for redetermination must be provided by the end of the current benefit period or within 10 days after they are requested, whichever allows more time. *Id* at 12.

It was not disputed that DHS mailed a Redetermination to Claimant so that CDC benefit eligibility could be redetermined. DHS contended that the redetermination was not returned. Claimant stated that she returned the Redetermination and stated that she signed the drop box log as proof. It should be noted that the DHS office involved in the

present case maintains a drop box in their lobby which allows for clients to drop-off documents. A log is kept next to the box so that client can verify the submission.

Claimant stated that she dropped-off the Redetermination in the first week of 8/2012. The drop-box records were obtained and Claimant was given an opportunity to review the records. Claimant was unable to locate her signature on the logs. Though it is conceivable that Claimant forgot to sign the log or misremembered her submission date, the presented evidence supports a finding that Claimant did not return the Redetermination to DHS. Accordingly, the CDC benefit termination 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 due to noncompliance with WPP participation and Claimant's CDC benefit eligibility effective 9/9/12 due to a failure to return redetermination documents. The actions taken by DHS are AFFIRMED.



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

Date Signed: 10/24/2012

Date Mailed: 10/24/2012

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:

