

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201314258
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: January 28, 2013
County: Wayne DHS (43)

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 January 28, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUE

The issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits due to Claimant's failure to attend Work Participation Program (WPP).

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 10/12/12, Claimant applied for FIP benefits.
2. Claimant reported to DHS that he had a short-term disability.
3. On 10/19/12, DHS mailed Claimant a Work Participation Appointment Notice informing Claimant of an appointment to attend WPP orientation on 11/5/12.
4. Claimant attended the orientation but was sent back to DHS to seek a WPP deferral based on short-term disability.

5. DHS failed to mail Claimant any documents concerning short-term disability.
6. On 11/13/12, DHS denied Claimant's application for FIP benefits due to Claimant's failure to continue WPP participation.
7. On 11/27/12, Claimant requested a hearing to dispute the FIP application denial.

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.*

Mandatory work participation program clients are referred to the Work Participation Program (WPP) upon application for FIP, when a client's reason for deferral ends or a member add is requested. BEM 229 (12/2011), p. 3. All Work Participation Program referrals are sent by Bridges (the DHS database). *Id.* Bridges (the DHS database) automatically denies FIP when a client fails to continue to participate while the FIP application is pending. *Id.*, p. 4. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with the work participation program. *Id.*

The present case involves a denial of a FIP benefit application based on Claimant's failure to attend a WPP orientation on 11/5/12. Claimant contended that he attended the orientation but that he was sent home by WPP staff after he told them of a short-term disability. Claimant also contended that he advised his specialist of the short-term disability, but DHS failed to consider his claim. Claimant's testimony that he reported a short-term disability was un rebutted. DHS was unable to present Claimant's original application or previously assigned specialist; either of which may have verified or contradicted Claimant's testimony. It is found that Claimant reported to DHS that he had a short term incapacity which prevented him from attending WPP. DHS has regulations for processing FIP benefit application while clients claim a short-term disability.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred for up to three

months. BEM 230A (11/2012), p. 10. DHS is to verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs - Work Participation Program, or other written statement from an M.D./D.O. *Id.* DHS is to set the medical review date accordingly, but not to exceed three months. *Id.*

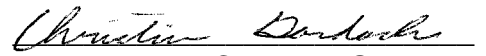
DHS conceded that Claimant was not mailed any medical forms concerning his claim of short-term incapacity. DHS also conceded that Claimant's short-term incapacity was not evaluated. Because DHS failed to consider Claimant's claim of short-term incapacity, DHS prematurely denied Claimant's FIP benefit application.

DECISION AND ORDER

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

1. re-register Claimant's FIP benefit application dated 10/12/12; and
2. initiate evaluation of Claimant for WPP deferral based on short-term incapacity by mailing Claimant a DHS-54 or DHS-54E.

The actions taken by DHS are REVERSED.


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

Date Signed: February 1, 2013

Date Mailed: February 1, 2013

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:

