

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

**IN THE MATTER OF:**



Reg. No.: 201317489  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: January 30, 2013  
County: Wayne DHS (57)

**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 30, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager.

**ISSUES**

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 an ongoing WPP participant.
3. Claimant stopped attending WPP on 10/30/12.
4. Claimant lacked good cause for eight days of WPP attendance.
5. On 11/30/12, DHS initiated termination of Claimant's FIP benefit eligibility effective 1/2013 due to WPP noncompliance.

6. On 12/11/12, Claimant requested a hearing to dispute the FIP benefit termination.

### **CONCLUSIONS OF LAW**

FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* DHS (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. DHS 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 Jobs, Education and Training (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. *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 an 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 ceased attending WPP on 10/30/12. Claimant testified that she returned to WPP on 11/28/12 but was turned away because she was already deemed to be noncompliant. For purposes of this decision, Claimant's testimony will be accepted as accurate. Claimant's WPP absence from 10/30/12 until 11/28/12 is a sufficient amount of absence to establish 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.*, 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.*

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 she had excuses for some of her WPP absences. Claimant presented DHS with documentation verifying that Claimant flew to [REDACTED] from 10/30/12 until 11/8/12. Claimant stated that the trip was to help her son during a time when Claimant's grandchild was ill. The presented evidence did not establish that Claimant's trip to [REDACTED] was for a family emergency, however, Claimant's testimony along with proof of the trip is deemed sufficient to establish good cause for Claimant's absences from 10/30/12-11/8/12.

It was not disputed that WPP mailed Claimant a re-engagement letter for Claimant to return to WPP on 11/20/12. Claimant testified that she misread the letter as ordering her to return on 11/28/12. Claimant also testified that she would have returned to WPP on 11/12/12, but that she assumed that she did not need to return sooner than 11/28/12. The letter was mailed by WPP on 11/15/12. Claimant cannot reasonably claim that she relied on the letter to excuse her from WPP attendance on 11/12/12 because the letter was not even in existence at that time.

The evidence established that Claimant lacked good cause for WPP absences from 11/9/12-11/27/12. Allowing Claimant a day of recovery from her [REDACTED] trip would shorten the period to 11/12/12-11/27/12. Claimant provided DHS with medical documentation during the hearing verifying a medical appointment on 11/14/12. There were also two days that WPP was closed (11/23/12-11/24/12) due to Thanksgiving break. What is left is five days (11/12/12, 11/13/12, 11/15/12, 11/16/12 and 11/19/12) where Claimant has no excuse for failing to attend WPP and an additional three days (11/21/12, 11/26/12 and 11/27/12) where Claimant, if believed, was innocently mistaken in not attending WPP. It was noted at the hearing that this case did not present the worst example of noncompliance by a client. Nevertheless, even incorporating good cause for some of Claimant's absences, Claimant has too many absences from WPP to be excused. It is found that DHS established that Claimant was noncompliant with WPP participation. Accordingly, the FIP 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, effective 1/2013, due to noncompliance with employment-related activities by Claimant. The actions taken by DHS are AFFIRMED.



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

Date Signed: February 6, 2013

Date Mailed: February 6, 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:

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- 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:

