

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

IN THE MATTER OF:



Reg. No.: 201317908
Issue No.: 3029
Case No.: [REDACTED]
Hearing Date: January 30, 2013
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 January 30, 2013, 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 imposed an employment-related disqualification on Claimant's Food Assistance Program (FAP) benefit eligibility stemming from alleged noncompliance with 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. Claimant was an ongoing WPP participant and FIP benefit recipient.
2. On an unspecified date, DHS determined that Claimant was noncompliant for missing one day of WPP.
3. On 12/10/12, DHS imposed an employment-related disqualification against Claimant due to alleged WPP noncompliance.
4. On 12/10/12, DHS initiated an unspecified reduction of FAP benefits because of the employment-related disqualification.

5. On 12/10/12, DHS also terminated Claimant's Family Independence Program (FIP) benefit eligibility.
6. On 12/17/12, Claimant requested a hearing only to dispute a reduction of FAP benefit eligibility, not the termination of FIP benefits.

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).

Claimant requested a hearing to dispute a FAP benefit reduction, effective 1/2013. It was not disputed that the FAP benefit reduction occurred solely due to imposition of an employment-related disqualification. It was not disputed that the disqualification was imposed based on Claimant's alleged noncompliance with WPP attendance.

Michigan's FAP Employment and Training program (i.e. WPP) is voluntary and penalties for noncompliance may apply if a client is active FIP/RCA and FAP and becomes noncompliant with a cash program requirement without good cause. BEM 233B (1/2013), p. 1. In the present case, it was not disputed that Claimant was found non-compliant with WPP participation at a time when she received FIP and FAP benefits. Thus, the FAP benefit penalty is proper, as long as DHS properly determined Claimant to be noncompliant with WPP participation.

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.*

DHS alleged that Claimant was found noncompliant with WPP participation for an alleged no-call/no-show with WPP on 12/10/12. DHS did not allege any further reason for the noncompliance. The participating DHS representatives had no first-hand knowledge of 12/10/12 events. The DHS testimony was based on notes made from a WPP representative. Telephone calls to WPP were made during the hearing for corroborating testimony of the notes but no WPP representative was available.

Claimant testified that she attended WPP on 12/10/12 but was two hours late. Claimant did not verify her testimony. It is known that WPP made notes concerning Claimant's 12/10/12 absence on 12/10/12. It is also known that DHS imposed the employment-related penalty against Claimant on 12/10/12. Because the supposed absence, noting of the absence and reporting of the absence all occurred on the same date, it is very possible that Claimant appeared at WPP after the notes were made but that WPP failed to document Claimant's appearance. Based on the presented evidence, Claimant is found to have been two hours late on 12/10/12 rather than a no-call/no-show.

DHS regulations provide insight into how many WPP absences amount to noncompliance. A client's participation in an unpaid work activity may be interrupted by occasional illness or unavoidable event. BEM 230A at 18. A WEI's absence may be excused up to 16 hours in a month but no more than 80 hours in a 12-month period. *Id.*

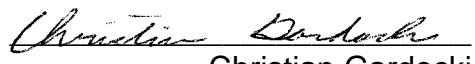
It was not already found that Claimant was absent two hours of WPP. DHS provided no evidence of further absence. Claimant's two hour absence is excusable and need not be verified with good cause. It is found that Claimant was compliant with WPP participation. Accordingly, the employment-related disqualification and accompanying FAP benefit penalty were not proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly reduced Claimant's FAP benefit eligibility effective 1/2013. It is ordered that DHS:

- (1) redetermine Claimant's FAP benefit eligibility effective 1/2013 subject to the finding that Claimant was compliant with WPP participation;
- (2) initiate a supplement for any benefits lost as a result of the improper finding of noncompliance; and
- (3) remove the relevant disqualification from Claimant's disqualification history.

The actions taken by DHS are REVERSED.


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

Date Signed: February 5, 2013

Date Mailed: February 5, 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 at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

