

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

**IN THE MATTER OF:**



Reg. No.: 201321176  
Issue No.: 1038, 3029  
Case No.: [REDACTED]  
Hearing Date: February 14, 2013  
County: Wayne DHS (35)

**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 February 14, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [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 (FAP) benefit eligibility due to Claimant's child's father's 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's was part of a household that included her child's father.
3. Claimant's child's father was not an ongoing WPP participant.
4. On unspecified dates, DHS mailed Claimant's child's father two Work Participation Program Appointment Notice forms to attend WPP on 10/18/12 and 12/8/12.
5. Claimant's child's father failed to attend WPP on both occasions.

6. On 12/18/12, imposed an employment-related disqualification against Claimant's child's father.
7. On 12/18/12, DHS mailed Claimant's child's father a Notice of Noncompliance scheduling a triage to be held on 12/26/12
8. On 12/18/12, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility due to Claimant's child's father's noncompliance with WPP participation.
9. On 12/18/12, DHS mailed Claimant a Notice of Case Action initiating a reduction of Claimant's FAP benefit eligibility due to the employment-related disqualification.
10. On 12/26/12, Claimant's child's father failed to attend the triage.
11. DHS determined Claimant's child's father had no good cause for a failure to attend WPP.
12. On 1/3/13, Claimant requested a hearing disputing the FIP benefit termination.

### **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, 8 USC 601, *et seq.* DHS administers the FIP pursuant to MCL 400.10, *et seq* and MAC R 400.3101-3131. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Federal and state laws require each work eligible individual (WEI) in the FIP group to participate in the work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (11/2012), p. 1. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain employment. *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.

BEM 233A (11/2012), p. 1-2

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.*

The present case, in part, concerns a dispute over a FIP benefit termination, effective 2/2013, based on an employment disqualification against Claimant's child's father. It was not disputed that Claimant's child's father failed to attend WPP on two different occasions, once on 10/18/12 and once on 12/8/12. It was also not disputed that Claimant's child's father failed to attend WPP on any dates thereafter. The failure by Claimant's child's father to attend WPP is a sufficient basis for 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.

It was not disputed that neither Claimant nor her child's father attended the triage scheduled by DHS on 12/26/12. Nevertheless, Claimant was given an opportunity to verify good cause at the administrative hearing.

Claimant testified that her child's father was unable to attend WPP orientation because he had to work on both dates that he was assigned to WPP. Claimant failed to present any documentation to support her claim. It was not disputed that her child's father previously reported employment to DHS. Based on the maximum FIP grant for Claimant's group size (\$492 per RFT 210 (1/2009), p. 1) and Claimant's actual FIP grant, it was estimated that Claimant's child's father reported approximately \$50-\$100 in monthly employment income to DHS. On one hand, the budgeting of some employment income is supportive of finding that Claimant's child's father could have been working on the dates of orientation. On the other hand, the income is so nominal, it would be improbable that the income was accurately reported and that Claimant's child's father happened to work on both assigned orientation dates.

It should also be noted that employment of 40 hours/week amounts to good cause. The reported employment of Claimant's child's father is estimated to be approximately 6 hours/week based on the \$50-\$100 in reported monthly income.

Claimant conceded that she never reported to her specialist that her child's father was unable to attend the orientation due to employment. Claimant testified that she contacted a customer service line in Lansing and was told that her child's father did not have to attend because he was working. Claimant's testimony is unverifiable. Claimant should have discussed the matter with her specialist. Claimant failed to clarify why her specialist was not informed of her child's father's WPP absences.

The presented evidence established that Claimant's spouse missed three different appointments concerning WPP, two orientation dates and a triage. Claimant failed to verify that her child's father had good cause for missing any of the dates. Accordingly, the employment-related disqualification and corresponding FIP benefit termination are found to be proper.

DHS is to disqualify a FAP group member for noncompliance when all the following exist:

- the client was active both FIP and FAP on the date of the FIP noncompliance;
- the client did not comply with FIP employment requirements;
- the client is subject to a penalty on the FIP program;
- the client is not deferred from FAP work requirements; and
- the client did not have good cause for the noncompliance. BEM 233B at 2.

Clients meeting one of the criteria below are temporarily deferred from FAP employment-related activities:

- Age: Defer a person who is under age 16 or at least age 60, a 16- or 17-year old who is not the grantee or a grantee age 16 or 17 in special circumstances.

- Care of a Child: Defer one person who personally provides care for a child under age six who is in the FAP group.
- Care of Disabled Household Member: Defer one person who personally provides care for a disabled member of his/her own FAP group.
- Disability: Defer persons incapacitated due to injury, physical illness or mental illness.
- Education: A student enrolled up to half time in any recognized school, training program or institution of higher education meets the employment-related activities requirement. This includes persons attending school for GED or adult high school completion.
- Employment: Persons employed, self-employed or in work study an average of 30 hours or more per week over the benefit period or earning on average the federal minimum wage times 30 hours per week are not required to participate in any further employment-related activities. This includes migrant or seasonal farm workers with an employer or crew chief contract/agreement to begin work within 30 days.
- Pregnancy: Defer pregnant women, beginning the seventh month of pregnancy or earlier if a pregnancy complication is medically documented.
- SSI-FAP Applicant: Defer applicants who apply for both SSI and FAP through the Social Security Administration. The application for SSI and FAP must be made at the same time.
- Substance Abuse Treatment Center Participant: Defer active participants in inpatient or outpatient programs for substance abuse treatment and rehabilitation. This does not include AA or NA group meetings. To verify use a verbal or written statement from the center.
- Unemployment Compensation (UC) Applicant or Recipient: Defer an applicant for or recipient of unemployment benefits. This includes a person whose unemployment benefits application denial is being appealed. BEM 230B (12/2011), pp. 3-5.

There was no dispute that the FAP benefit reduction was solely based on Claimant's child's father's noncompliance with WPP participation. It was determined above that the noncompliance findings by DHS were proper. DHS established all other requirements to justify a FAP benefit disqualification. It is found that DHS properly reduced Claimant's FAP benefit eligibility due to an employment-related activity disqualification.

### **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 and reduced Claimant's FAP benefit eligibility, effective 2/2013, due to noncompliance with employment-related activities by Claimant's child's father.

The actions taken by DHS are AFFIRMED.



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

Date Signed: 2/20/2013

Date Mailed: 2/20/2013

**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:

