

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

**IN THE MATTER OF:**



Reg. No.: 201321718  
Issue No.: 1038  
Case No.:   
Hearing Date: February 14, 2013  
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 February 14, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included , Specialist.

**ISSUE**

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to Claimant'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 was not an ongoing WPP participant.
3. On 11/28/12, DHS mailed Claimant a Work Participation Program Appointment Notice to attend WPP on 12/10/12.
4. On 12/1/12, Claimant moved from her residence and subsequently attempted to report the move to DHS.

5. Claimant failed to receive the Work Participation Program Appointment Notice dated 11/28/12 because of her recent move.
6. Claimant failed to attend WPP on 12/10/12.
7. On 12/29/12, DHS mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on 1/4/13.
8. On 12/29/12, DHS imposed an employment-related disqualification against Claimant and mailed a Notice of Case Action terminating Claimant's FIP benefit eligibility, effective 2/2013, due to noncompliance with WPP participation.
9. On 1/4/13, Claimant received the Notice of Noncompliance and called DHS to attempt participation in the triage via telephone.
10. DHS determined that Claimant had no good cause for her failure to participate with WPP.
11. On 1/8/13, 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 involves a FIP benefit termination, effective 2/2013. It was not disputed that the termination occurred after DHS imposed an employment-related disqualification against Claimant due to her failure to attend WPP.

All work participation program referrals are sent by Bridges. BEM 229 (11/2012), p. 3. Bridges will generate an automated work participation program referral to the Michigan Works! Agency's (MWAs) One Stop Management Information System (OSMIS), as well as generating an DHS-4785, Work Participation Program Notice, which is sent to the participant. *Id.* Claimant testified that she never received the DHS-4785 (Work Participation Program Appointment Notice).

It was not disputed that Claimant failed to attend a WPP orientation scheduled for 12/10/12 after DHS mailed her a DHS-4785. It was not disputed that DHS mailed the DHS-4785 on 11/28/12 to Claimant's last reported address. Claimant testified that she moved into a new residence as of 12/1/12 and attempted to report the change to DHS. Claimant also testified that she was unable to leave a message with her specialist because her specialist's voicemail was full.

Claimant did not verify the date of her move, but her testimony was credible. At the outset of the hearing, Claimant updated her address for purposes of receiving the administrative decision; this is consistent with a recent change of address. Further, Claimant's specialist conceded that her voicemail is occasionally unavailable due to the volume of messages that she receives. It is reasonable to believe that Claimant would not have received a DHS mailing from 11/28/12 if she moved from her residence on

12/1/12. Based on the presented evidence, it is found that Claimant did not receive the notice to attend WPP orientation.

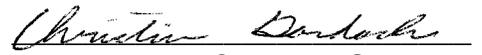
If Claimant did not receive proper notice to attend WPP orientation, DHS cannot find noncompliance based on Claimant's failure to attend. Accordingly, the FIP benefit termination is found to be improper.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP benefit eligibility. It is ordered that DHS initiate:

- (1) redetermination of Claimant's FIP benefit eligibility, effective 2/2013, subject to the finding that Claimant failed to receive notice of an obligation to attend WPP;
- (2) processing of a supplement for any benefits lost as a result of the improper finding of noncompliance; and
- (3) removal of any 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: 2/19/2013

Date Mailed: 2/19/2013

**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:

