

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

**IN THE MATTER OF:**



Reg. No.: 201327919  
Issue No.: 3029  
Case No.: [REDACTED]  
Hearing Date: April 3, 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, an in-person hearing was held on April 3, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED] Manager.

**ISSUE**

The issue is whether DHS properly reduced Claimant's eligibility for Food Assistance Program (FAP) benefits based on an employment-related disqualification.

**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 FAP and Family Independence Program (FIP) benefit recipient.
2. On 9/20/12, DHS mailed Claimant a Work Participation Program Appointment Notice (Exhibit 1) notifying Claimant of an appointment to attend Work Participation Program (WPP) on 10/5/12.
3. Claimant failed to attend the 10/5/12 appointment.
4. On 10/23/12, a triage was held and Claimant alleged good cause based on a need to take care of her disabled child.

5. DHS determined that Claimant lacked good cause for her failure to attend WPP (see Exhibit 4).
6. On an unspecified date, DHS imposed an employment-related disqualification and reduced Claimant's FAP benefit eligibility for the months of 11/2012-1/2013.
7. On an unspecified date, Claimant requested a hearing to dispute the FAP benefit reduction.

### **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. 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 failing to attend a WPP orientation on 10/5/12. There was no evidence that Claimant made any attempts to attend WPP after 10/5/12. Claimant's lack of efforts in attending WPP were not disputed. DHS established a 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. *Id.*, 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 should be noted that the above good cause reasons apply specifically to employment-related disqualifications for FIP benefits. The present case only concerns FAP benefits. However, because the employment-related disqualification was based on a FIP benefit disqualification, good cause for noncompliance with FIP benefit eligibility is appropriate.

Claimant attended a triage on 10/23/12. Claimant's only claim of good cause was based on having a disabled child. DHS determined that Claimant's child was of school age and that Claimant had no excuse for missing WPP as long as the child was in school.

DHS presented a form (Exhibit 4) which noted that Claimant had no good cause, and which was signed by Claimant. DHS contended that the form verified a concession of good cause by Claimant. The form appears to be a summary of the triage. There is no wording on the form which indicates that Claimant's signature equates to a concession that she had no good cause. The form is found to be unpersuasive in determining whether DHS properly determined good cause.

In support of the claim of good cause, Claimant presented a letter (Exhibit 5) dated 10/19/12 by her child's treating physician. The letter stated that Claimant's child was diagnosed with autistic disorder, moderate mental retardation. It was also noted that Claimant's child suffered from: emotional problems, behavioral problems, no speech, high hyperactivity, poor sleep and low frustration tolerance. It was noted that the child needed: 24/7 supervision, frequent therapy sessions and frequent medical appointments. It was also noted that Claimant's mother was the child's main caretaker and extremely busy because of the "severely disturbed child."

DHS responded that Claimant's child was of school age and was attending school at the time of Claimant's WPP appointment. Claimant did not dispute this fact. It was not established why Claimant's child would require Claimant's supervision during a period

that the child attended school. Further, Claimant never asserted a specific reason why she could not attend WPP on 10/5/12 or in the days thereafter.

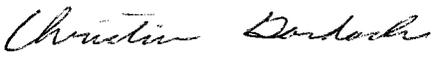
Claimant's letter was persuasive evidence to justify a total deferral from WPP participation. It was less persuasive in establishing good cause because it failed to address why she failed to attend WPP on 10/5/12. Nevertheless, the letter was sufficiently persuasive to excuse Claimant from WPP participation on 10/5/12. Accordingly, it is found that Claimant established good cause. Accordingly, the FAP benefit reduction is found to be improper. It should be noted that this decision only addresses whether Claimant had good cause for not attending WPP in 10/2012, not whether Claimant should have to attend WPP in the future.

### **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. It is ordered that DHS:

- (1) remove any relevant disqualification from Claimant's disqualification history;
- (2) initiate supplement of Claimant's FAP benefit eligibility from 11/2012-1/2013, subject to the finding that Claimant established good cause for alleged WPP noncompliance.

The actions taken by DHS are REVERSED.

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

Date Signed: 4/10/2013

Date Mailed: 4/10/2013

**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:

