

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201329492
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: June 5, 2013
County: Wayne DHS (18)

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 June 5, 2013, from Detroit, Michigan. Johnnie Combs, Claimant's spouse, appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], PATH Coordinator.

ISSUE

The issue is whether DHS properly terminated Claimant's Family Independence Program (FIP) benefit eligibility due to noncompliance with Work Participation Program 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 and her spouse were ongoing FIP benefit recipients.
2. Claimant was deferred from WPP participation due to having a disability.
3. Claimant's spouse was deferred from WPP participation for establishing a need to take care of Claimant.
4. On an unspecified date, DHS requested documentation from Claimant's spouse to continue deferral from WPP participation.

5. On an unspecified date, DHS terminated Claimant's FIP benefit eligibility, effective 1/2013, due to Claimant's spouse's failure to return documentation to justify continued deferral from WPP participation.
6. DHS did not mail Claimant a notice of the benefit termination.
7. On 2/7/13, Claimant requested a hearing to dispute the FIP benefit termination.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FIP benefit termination. DHS presented testimony that the basis for the termination was noncompliance in WPP by Claimant's spouse. Specifically, DHS alleged that Claimant's spouse was sent to attend WPP and failed to return any documentation of good cause for not attending. For purposes of this decision, it will be accepted that DHS had a proper basis to terminate Claimant's FIP benefit eligibility. The only issue that will be considered is whether Claimant submitted good cause documentation prior to the benefit termination.

Upon certification of eligibility results, Bridges (the DHS database) automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (11/2012), p. 1. A notice of case action must specify the following:

- the action(s) being taken by the department;
- the reason(s) for the actions
- the specific manual item which cites the legal base for an action or the regulation or law itself;
- an explanation of the right to request a hearing; and
- the conditions under which benefits are continued if a hearing is requested.

Id. pp. 1-2

DHS conceded that a Notice of Case Action had not been mailed to Claimant, even as of the date of the hearing. Thus, DHS had still not officially notified Claimant of the benefit termination, or the reasons for the termination. The lack of notice is a significant

procedural failure which handicaps a client in trying to correct a procedural error prior to a case closure.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220 (11/2012), p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.*, pp. 4-5. The action is pending to provide the client a chance to react to the proposed action. *Id.* Bridges automatically calculates the negative action date. *Id.*, p. 9. The negative action date on Bridges is the day after the timely hearing request date on the Bridges notice of case action. *Id.*

Had DHS properly issued a Notice of Case Action, Claimant would have been put on notice for the reason for the benefit termination. DHS alleged that Claimant's spouse was noncompliant with WPP because his deferral ended when he failed to verify an ongoing need to care for his disabled spouse. Had DHS issued proper notice to Claimant, it is reasonably possible that Claimant would have verified the ongoing need to care for his spouse. It is difficult to fault Claimant's spouse for a procedural failure, if the failure might have been corrected by an earlier DHS procedural failure. Based on the presented evidence, it is found that DHS improperly terminated Claimant's FIP benefit eligibility by failing to give written notice of the termination.


As it happened, Claimant's spouse brought documentation to the hearing to support a continued WPP (now known as PATH) deferral. DHS conceded that a written notice of closure had still not been issued. As Claimant brought documentation to support good cause prior to the issuance of a Notice of Case Action, DHS shall be required to evaluate Claimant's spouse for potential good cause prior to any further negative actions related to PATH noncompliance.

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 1/2013, subject to the finding that DHS improperly imposed an employment-related disqualification against Claimant's spouse, and the finding that DHS shall evaluate Claimant's documentation for good cause prior to any future benefit terminations;
- (2) supplement any benefits lost as a result of the improper finding of noncompliance; and
- (3) removal of any relevant disqualification from Claimant's or Claimant's spouse'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: 6/24/2013

Date Mailed: 6/24/2013

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:

