

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201312458
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 19, 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 19, 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 eligibility for Family Independence Program (FIP) benefits, effective 10/2012, due to quitting employment.

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. In 3/2012, Claimant and her children were assaulted by a relative.
3. In 6/2012, Claimant quit her employment due to fear of being assaulted again by her relative.
4. Within the following 30 days, Claimant applied for FIP benefits.
5. On an unspecified date, DHS approved Claimant's application for FIP benefits.

6. On 9/6/12, DHS mailed Claimant a Notice of Noncompliance, scheduling a triage to be held on 9/14/12.
7. On 9/6/12, DHS imposed an employment disqualification against Claimant causing the termination of Claimant's FIP benefit eligibility, effective 10/2012.
8. The employment disqualification was due to Claimant quitting employment within 30 days of her FIP benefit application date.
9. On 9/14/12, Claimant attended a triage and DHS determined that Claimant lacked good cause for quitting employment.
10. On 9/28/12, Claimant requested a hearing disputing the termination of FIP benefit eligibility.

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).

The present case concerns a FIP benefit termination effective 10/2012. It was not disputed that Claimant quit her employment within the 30 day period prior to applying for FIP benefits. DHS subsequently approved Claimant for FIP benefits before disqualifying Claimant for quitting her employment. Claimant contended that she had good cause for quitting her employment.

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

Refusing suitable employment means doing any of the following:

- Voluntarily reducing hours or otherwise reducing earnings.
 - Quitting a job
 - Firing for misconduct or absenteeism (not for incompetence).
 - Refusing a bona fide offer of employment or additional hours up to 40 hours per week.
- Id.*, p, 6,

If a WEI applicant refuses suitable employment without good cause while the FIP application is pending (or up to 30 days before the FIP application date), DHS is to approve FIP benefits no earlier than the pay period following the pay period containing the 30th day after the refusal of employment. *Id.*

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.*

It is debatable whether DHS should have imposed an employment disqualification against Claimant after processing her FIP benefit eligibility. The above policy allows DHS to delay FIP benefits but does not specifically authorize a termination of FIP benefits. For purposes of this decision, it will be assumed that DHS had the authority to impose a penalty against Claimant after approving Claimant's FIP benefit eligibility. For the disqualification to be proper, DHS must still evaluate whether Claimant had good cause for quitting employment.

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.

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.*

Claimant testified that she quit her employment because she was concerned for her safety after being assaulted by a relative. Claimant testified that in 3/2012, a family member poured gasoline over her and her children over a dispute over rent. Claimant testified that she reported the incident to police which led to the subsequent arrest of her relative. Claimant testified that since the assault, she moved to a residence which she kept secret; however, the relative still knew where she was employed. Claimant testified that after the assault, her relative regularly appeared at Claimant's workplace and threatened Claimant. Claimant testified that she quit her job so the relative would have no knowledge Claimant's or her children's whereabouts.

It was curious that Claimant awaited approximately three months to quit her job following the assault. Claimant testified that the relative became more threatening as it became clearer to the relative that he would be prosecuted for the assault.

At the hearing, Claimant presented DHS with court documents verifying prosecution of an individual for which Claimant was being called as a witness. At the triage, Claimant verified that she filed a police report in 3/2012 describing the assault. Claimant's testimony was sufficiently verified and credible. Based on the presented evidence, Claimant established good cause for quitting her employment. Accordingly, the termination of FIP benefits 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 10/2012, subject to the finding that Claimant established good cause for quitting employment;
- (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: 2/22/2013

Date Mailed: 2/22/2013

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:



