

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

IN THE MATTER OF:



Reg. No.: 201320597
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 14, 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, 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], Manager.

ISSUE

The issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits due to Claimant's alleged failure to attend Work Participation Program (WPP).

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 11/5/12, Claimant applied for FIP benefits.
2. Claimant noted on her application that she had a disability due to injuries related to a car accident from 9/30/12.
3. DHS failed to evaluate Claimant for a deferral from WPP based on her claim of disability.
4. On an unspecified date, DHS mailed Claimant a notice to attend a WPP orientation scheduled for 12/14/12.

5. Claimant attended the WPP orientation on 12/14/12.
6. On 12/18/12, DHS mailed Claimant a Notice of Case Action informing Claimant of a denial of FIP benefits.
7. On 1/4/13, Claimant requested a hearing to dispute the FIP application denial.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A (11/2012), p. 1. The DHS focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. *Id.* However, there are consequences for a client who refuses to participate, without good cause. *Id.*

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.*

Mandatory work participation program clients are referred to the Work Participation Program (WPP) upon application for FIP, when a client's reason for deferral ends or a member add is requested. BEM 229 (11/2012), p. 3. All Work Participation Program referrals are sent by Bridges (the DHS database). *Id.* Bridges automatically denies FIP when a client fails to continue to participate while the FIP application is pending. *Id.*, p. 4. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with the work participation program. *Id.*

In the present case, DHS denied Claimant's FIP benefit application after Claimant allegedly failed to attend a WPP orientation appointment on 12/14/12. DHS provided testimony explaining that WPP worksites are responsible for tracking WPP attendance. DHS provided testimony that WPP staff are to input the names of persons who attend WPP orientation in Bridges, the DHS database. DHS testified that Claimant's name was not among those entered by WPP as having attended the 12/14/12 orientation.

Claimant testified that she attended the WPP appointment on 12/14/12. During the hearing, Claimant presented DHS with documentary evidence to support her testimony. DHS accepted the documentary evidence as proof of Claimant's attendance for 12/14/12. Based on the DHS concession, it is found that Claimant attended the WPP orientation scheduled for 12/14/12.

A second issue was also raised. Claimant testified that when she attended the orientation, she was advised by a WPP representative to return to DHS to seek a deferral from WPP based on a physical impairment. Claimant testified that she sustained injuries in a vehicle accident on [REDACTED] and had not fully recovered by the date she was to attend WPP. Claimant also testified that she noted the injuries on her Assistance Application dated 11/5/12. DHS could not rebut Claimant's testimony because Claimant's application was not made available during the hearing. Claimant's testimony implied that she would be unable to attend WPP for a period not expected to exceed three months.

Persons with a mental or physical illness, limitation, or incapacity expected to last less than three months and which prevents participation may be deferred from WPP participation for up to three months. BEM 230A (11/2012), p. 10. DHS is to verify the short-term incapacity and the length of the incapacity using a DHS-54A, Medical Needs, or DHS-54E, Medical Needs - Work Participation Program, or other written statement from an M.D./D.O. *Id.* DHS is to set the medical review date accordingly, but not to exceed three months. *Id.*

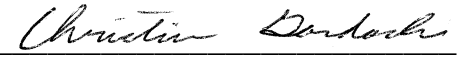
DHS conceded that Claimant was never evaluated for a potential deferral from WPP. It is found that DHS also erred by denying Claimant's application prior to evaluating Claimant for a short-term disability.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FIP benefits. It is ordered that DHS:

1. re-register Claimant's FIP benefit application dated 11/5/12;
2. process Claimant's application subject to the finding that Claimant reported to DHS that she suffered a short-term disability; and
3. initiate supplement of any FIP benefits not issued as a result of the improper denial.

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:

