

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201330323
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: March 25, 2013
County: Wayne DHS (41)

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 March 25, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Manager.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for Family Independence Program (FIP) 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 an unspecified date, DHS mailed Claimant a Work Participation Program (WPP) Appointment Notice to attend for an appointment dated 12/12/12.
4. Claimant attended the WPP orientation.

5. On 12/28/12, DHS imposed an employment-related disqualification against Claimant and mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage meeting to be held on 1/3/13.
6. On 12/28/12, DHS mailed Claimant a Notice of Case Action initiating termination of Claimant's FIP benefit eligibility, effective 2/2013, due to noncompliance with WPP participation.
7. On 1/3/13, Claimant did not attend the triage meeting.
8. DHS determined that Claimant had no good cause for her failure to attend WPP.
9. On 2/12/13, 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, based on an employment disqualification imposed against Claimant. It was not disputed that Claimant received a notice to attend a WPP orientation for 12/12/12. DHS contended Claimant never attended the WPP orientation, or any dates thereafter. Claimant contended that she attended the orientation and presented signed physician documents dated 6/2012 which stated that Claimant was disabled for a one year period. Claimant testified that the WPP representative told Claimant that the documents would be forwarded to DHS and that Claimant need not return to WPP because the documents verified a disability.

Claimant did not have any verification for her testimony. Claimant did not recall the name of a person she spoke with from WPP. Claimant did not obtain any documentation from WPP verifying that she attended on her assigned orientation date. Claimant also failed to attend a subsequent triage meeting, which is supportive of finding that Claimant has a pattern of missing WPP-related appointments. Further, Claimant's basis for deferral was underwhelming and based on six month old documentation. This evidence was supportive of finding that Claimant failed to attend WPP.

On the other hand, DHS conceded that there have been occasions when WPP excused clients from WPP attendance, even though WPP does not have the authority to do so. Claimant's testimony included specific details about her WPP attendance on 12/12/12 which would be more difficult to do if Claimant's testimony was fabricated. Concerning Claimant's failure to attend the triage, Claimant responded that she did not receive the notice to attend until 1/3/13; this seems plausible when factoring a mailing date of 12/27/12 and non-delivery days in-between. On 1/4/13, Claimant provided DHS with a letter which was very consistent with all of her testimony. All of this evidence was supportive in finding that Claimant was WPP compliant.

The overall evidence was not particularly compelling for with side. However, Claimant's was slightly more probable than DHS' testimony. Accordingly, it is found that Claimant

attended WPP orientation and was told by WPP that she need not attend further. Accordingly, Claimant was compliant with WPP attendance and the FIP benefit termination was improper.

It should be noted that this decision does not defer Claimant from any future WPP attendance. This decision only finds that Claimant was compliant with WPP attendance in 12/2012.

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 was complaint with WPP attendance;
- (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: 4/4/2013

Date Mailed: 4/4/2013

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:

