

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant,

Reg No: 2009-17071
Issue No: 1015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 14, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing filed on 2/27/09. After due notice, a telephone hearing has conducted from Detroit, Michigan on October 14, 2009. The Claimant appeared and testified. Charles Forster, JET Worker/FIS, appeared for the Department.

ISSUE

Whether the Department properly calculated and paid the Claimant Family Independence Program ("FIP") benefits?

FINDINGS OF FACT

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

1. The Claimant applied for FIP benefits on October 30, 2008.
2. The Department calculated a FIP budget on 11/26/08 with no earned/unearned income which resulted in a benefit award of \$492.00/month.

3. The Department sent Claimant an initial Eligibility Notice dated 11/16/08 indicating a FIP award of \$492.00 per month. (Exhibit 2).
4. The Department then sent Claimant an Eligibility Notice dated 11/26/08 indicating a FIP award of \$92.00 per month. This Notice indicates a budgetable income for Claimant of \$400.00 per month. (Exhibit 3).
5. The Department testified that Claimant did not have any income other than child support at the time of her application.
6. Claimant testified that at the time of application, she was receiving \$150.00 per week for child support. The child support payment report shows Claimant received the following in support:
 - a. November - \$438.19
 - b. December - \$342.00
 - c. January - \$230.34
 - d. February - \$153.57
7. Following the FIP award, Claimant was paid \$92.00 for the month of December, but her entire child support check was garnished by the State of Michigan. (See, Exhibit 4).
8. The Claimant and the Department both testified that Claimant was not subject to any type of administrative recoupment that would have lowered her FIP award.
9. As a result, Claimant requested that the Department close her FIP case as she determined that she had more money to live from the child support alone.
10. For the months of January, February and March of 2009, the Claimant received \$50.00 in FIP benefits despite the fact that her case was close. Moreover,

Claimant's entire child support check was still garnished by the State of Michigan.

11. On October 17, 2008 the Department received the Claimant's hearing request protesting the amount of the FIP award and the State withholding her child support after her case closed.

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.* The Department of Human Services administers the FIP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children ("ADC") program effective October 1, 1996. Department policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The eligible group must be in financial need to receive benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. Program, living arrangement, grantee status and eligible group size are variables that affect the payment standard. PEM 515, p. 1. Specifically, financial need exists when the eligible group passes both the "Deficit Test" and the "Child Support Income Test." To perform the deficit test, subtract the program group's budgetable income from the eligible group's payment standard (PEM 515) for the benefit month. To meet the child support income test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group's payment standard. PEM 518.

The payment standard for a group of three, such as the instant case, is \$492.00. Claimant had no income to report. In fact, the budget does not include any child support income either. The Department admitted in the hearing that Claimant had not earned income. Claimant's child support was under the FIP payment standard for the months of December, 2008 and January – February, 2009. Claimant's income, therefore, under either the "Deficit Test" or the "Child Support Income Test" was less than \$492.00/month. As Claimant had no income, she would have qualified for the full amount of FIP or \$492.00.

The Eligibility Notice (Exhibit 3) contains a note at the bottom indicating "Child support budgeted for November. Beginning 12/2008 Department of Human Services will receive your child support and give you the first \$50.00." (Exhibit 3). The Department took Claimant's child support but then failed to give her any benefits which the support would have offset. Claimant closed her FIP case so that she could begin receiving the full amount of support but the support continued paying to the Department.

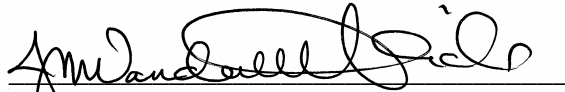
Accordingly, the Administrative Law Judge finds, based on the above facts and conclusions of law, including the budget relied upon by the Department, that the Claimant qualified for the full award of FIP benefits and the Department's decision to not pay the full amount of FIP benefits for any period when Claimant's child support was withheld by the State is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly received Claimant's court ordered child support for two months without paying Claimant the full amount of FIP award.

Accordingly it is ORDERED:

1. The Department decision to pay Claimant less than the full amount of FIP benefits for the months of December, 2008 and January – February, 2009 while collecting Claimant’s child support is REVERSED.
2. The Department shall supplement the Claimant for any lost benefits, to the full FIP award for the months of December, 2008 and January – February 2009. The Department is permitted to reopen and reprocess the Claimant’s FIP case back to the date of closure if necessary to comply with this Order.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/12/09

Date Mailed: 11/17/09

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JV/dj

cc:

