

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg. No.: 20108486

Issue No.: 1017

Case No.: ██████████

Load No.: ██████████

Hearing Date:

May 17, 2010

Oakland 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 on March 10, 2009. After due notice, an in-person hearing was conducted from Oakland County, Michigan on May 17, 2010. The Claimant appeared and testified along with ██████████, Case Manager, ██████████ ██████████. ██████████, Case Manager, ██████████, FIM and ██████████, FIS appeared for the Department.

ISSUE

Whether the Department properly calculated the Claimant Family Independence Program ("FIP") benefits based on income?

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.

2. A wage verification, dated 9/9/09, was returned by Claimant's employer indicating that Claimant receives \$8.25 per hour, 40 hours per week. The wage verification references a letter clarifying how Claimant is paid. (Exhibit 1, p. 3-4).
3. The letter indicates that the employer pays Claimant's housing costs directly, including:
 - a. \$800.00/month to Citimortgage;
 - b. \$38.00/month to [REDACTED] for electricity;
 - c. \$111.00/month to [REDACTED] for gas;
 - d. \$218.00/month to [REDACTED] for phone/internet; and
 - e. \$80.00-\$160.00/every two months water bill.
4. On 3/2/09, the Department calculated a FIP budget using Claimant's hourly income from the wage verification. (Exhibit 1, p. 1).
5. The Claimant testified that since he is only receiving \$120.00/month in cash that is what should have been used for calculation of FIP benefits.
6. The Claimant testified that he received a 1099 for the entire amount of hourly earnings, including the amount paid for housing.
7. On March 10, 2009 the Department received the Claimant's hearing request protesting the amount of income used to calculate FIP benefits. (Exhibit 3).

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 Bridges/Program Administrative Manual (“BAM/PAM”), the Bridges/Program Eligibility Manual (“BEM/PEM”), and the Reference Tables (“RFT”).

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. BEM/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 (BEM/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. BEM/PEM 518.

Bridges excludes as income any gain or benefit in a form other than money. In kind benefits can include, for example: meals, clothing, home energy, garden produce and shelter. It includes shelter provided by an employer instead of cash wages. BEM 500, p. 7. Payment of an individual’s bills by a third party directly to the supplier using the third party's money is not income to the individual. However, if the third party is paying the bill instead of paying money due the individual such as money owed for child support or owed on a loan, the payment is considered the individual's unearned income. BEM 500, p. 8.

In the subject case, Claimant argues that the payment he receives from his employer, paid directly for housing costs should be considered in kind payments. Here the employer is paying Claimant’s shelter and utility costs directly to the providers. There is nothing to indicate that the

employer owes Claimant anything other than wages which are being paid in kind. Contrary to the Department's assertion, and according to BEM 500, in kind benefits apply to all programs. Since, the in kind benefits are limited to meals, clothing, home energy, garden produce and shelter, however, the undersigned finds that the AT&T phone/internet bill should not be included in the in kind benefits.

Accordingly, based on the findings of fact and rules of law listed above, the Administrative Law Judge finds that the Department incorrectly determined Claimant's income for purposes of FIP benefits.

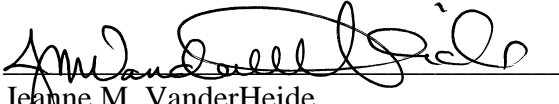
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly determined the Claimant income for calculation of FIP benefits.

Accordingly, it is ORDERED:

1. The Department's FIP eligibility determination is REVERSED.
2. The Department shall recalculate Claimant's FIP benefits excluding from income any in kind benefits for shelter and utility payments (but not phone/internet) made by Claimant's employer.

3. The Department shall supplement Claimant with any lost benefits he was otherwise entitled to receive.

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

Date Signed: June 10, 2010

Date Mailed: June 10, 2010

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.

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