

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-40828

Issue No: 1022, 1018

[REDACTED]

[REDACTED]

Midland County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "Claimant") request for a hearing received on May 17, 2011. After due notice, a telephone hearing was held on August 4, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's eligibility for 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 as material fact:

1. Claimant was a recipient of FIP benefits in the amount of [REDACTED] for one of the group members (her nephew). (Department Exhibit 3B).
2. In April of 2011, Claimant's nephew, who was a high school student, became 18 years of age and then obtained a summer job at the Grand Traverse Pie Company earning [REDACTED] per hour for 24 hours per week. (Department Exhibit 4).
3. On May 6, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) advising her that her FIP would close due to changed income and that she would now collect [REDACTED] and will receive Extended FIP (EFIP) for 6 months. (Department Exhibit 3A).
4. Following receipt of the DHS-1605, Claimant contacted her department worker and pointed out that the actual income was less than the initial

calculation. The department recalculated the changed monthly income [REDACTED] and the FIP was budgeted to [REDACTED]. (Hearing Summary).

5. On May 17, 2011, Claimant requested a hearing contesting the department's closure of her FIP. (Request for a Hearing).

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

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 (DHS or Department) 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 Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Department of Human Services (DHS) believes that children are best served by living in supportive family settings. The mutual responsibility of family members for each other and their commitment to caring for each other are key to building strong families. BEM 210. Parents are responsible for the care and support of their minor children. BEM 210. In the absence of parents, children may be cared for by other adults having specific relationships to the children. BEM 210. Spouses are responsible for each other. BEM 210. All needy family members living together are expected to share income, assets, and expenses. BEM 210.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group (EDG) and the FIP certified group. BEM 210. To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker. BEM 210. A caretaker is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision. BEM 210.

A dependent child is an unemancipated child who lives with a caretaker and is:

- Under age 18. Or
- Age 18 or 19 and a full-time high school student that will graduate before age 20. BEM 210.

The FIP EDG includes all household members whose information is needed to determine FIP eligibility. BEM 210. Based on data entered in the system, the department's computer system known as "Bridges" determines all of the following:

- Each household member's FIP EDG participation status.
- Which individuals' income and assets are considered.
- Which individuals' needs are considered.
- Which individuals' relationship(s) to other members are considered. BEM 210.

These determinations are made based on the individual's:

- Age.
- School attendance.
- Relationship(s) to other household members.
- Program Request status.
- Receipt of other program benefits such as SSI, child foster care payments or Independent Living Stipend. BEM 210.

When cash assistance is requested for a dependent child, or a dependent child is a mandatory FIP EDG member, all of the following individuals who live together are in the FIP EDG:

- Dependent Child.
- Child's legal parent(s).
- Child's legal siblings who meet the definition of a dependent child (siblings have at least one legal parent in common).
- Legal parent(s) of the child's siblings.
- Child's legal stepparent, even after death of or divorce from the parent.
- Child's legal stepsiblings who meet the definition of a dependent child, even after death of or divorce from the parent.
- Child's child. BEM 210.

A legal parent or stepparent living with a dependent child is always the child's caretaker, unless the parent is a minor. BEM 210. A person other than a legal parent or stepparent may be a caretaker only when the dependent child has no legal parent or stepparent in the home. BEM 210. A caretaker in the child's home, other than a parent or stepparent must be one of the following:

1. A relative who is at least age 18 and legally related to the child by blood, marriage or adoption, as any of the following:
 - Grandparent (including great or great-great).
 - Aunt or uncle (including great or great-great).

- Sibling.
 - Stepsibling.
 - Nephew or niece.
 - First cousin or first cousin once removed.
 - The spouse of any of the above, even after the marriage is ended by death or divorce.
 - The parent of the child's putative (alleged) father.
2. The child's legal guardian(s).
 3. An adult(s) who is at least age 21 and whose petition for legal guardianship of the child is pending.
 4. An adult, having none of the qualifying relationships above, with whom DHS children's services has placed a child, subsequent to a court order identifying DHS as responsible for the child's care and supervision. This relationship is known as unrelated caregiver, formerly fictive kin. Occasionally, a child is included in a FIP EDG when there is not a qualifying relationship to the caretaker due to mandatory EDG member policy. BEM 210.

A needy caretaker other than a parent or stepparent may request cash assistance and be included in the FIP certified group. BEM 210. The caretaker's spouse and dependent children living in the home must also be included in the FIP certified group when the caretaker is included. BEM 210. When FIP eligibility is based solely on the presence of a child placed in the home by children's services, the adult is in the FIP EDG for relationship purposes, but cannot be in the FIP certified group. BEM 210. FIP for court-ordered unrelated caregivers is limited to the ineligible grantee payment standard. BEM 210.

When a minor parent lives with a qualifying FIP caretaker other than a parent or stepparent, and the caretaker requests cash assistance for themselves, the minor parent is a dependent child. BEM 210. If the minor parent's non-parent caretaker does not request cash assistance, or is ineligible for FIP, the minor parent may apply, be treated as an adult and be the FIP grantee; see BEM 201. BEM 210.

When a person is caring for two or more dependent children who are not legally related to each other as siblings or stepsiblings, all children for whom the caretaker requests cash assistance are in a single FIP EDG and certified group. BEM 210. The caretaker, however, is not required to request assistance for all children who are not related to each other as siblings or stepsiblings. BEM 210.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 505. Actual income is income

that was already received. BEM 505. Prospective income is income not yet received but expected. BEM 505. Prospective budgeting is the best estimate of the client's future income. BEM 505.

Wages are the pay an employee receives from another individual or organization. BEM 501. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501.

Financial need must exist to receive benefits. BEM 518. Financial need exists when the certified group passes both the Deficit Test and the Child Support Income Test. BEM 518. To perform the deficit test, Bridges subtracts budgetable income from the certified group's payment standard (BEM 515) for the benefit month. BEM 518. Bridges compares budgetable income for the income month to the certified group's payment standard for the benefit month. BEM 518. The group is ineligible for the benefit month if no deficit exists. BEM 518.

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 certified group's payment standard. BEM 518. The income of disqualified EDG members is countable. BEM 518. A child support income test is required only when the group has certified support of more than \$50. BEM 518.

A deficit of at least \$10 is required to receive a cash benefit. BEM 518. If the deficit is less than \$10 but at least \$1, financial need exists but no cash benefits are issued by Bridges. BEM 518.

The benefit month is the month an assistance payment covers. The income month is a calendar month in which countable income is received or anticipated. The income month is the same as the benefit month. BEM 518. Countable income is defined in BEM 500. BEM 518. Available income, the amount of income to budget and when to complete a budget are defined in BEM 505. BEM 518. Bridges uses policy in this item to determine the budgetable income and financial eligibility. BEM 518.

For FIP purposes, financial need exists if there is at least a [REDACTED] deficit after income is budgeted and the group passes the child support income test. BEM 518. If the group fails either test, the group is ineligible for assistance. BEM 518. The department will certify the FIP denial or closure in Bridges for the benefit month unless the group meets the conditions for temporary ineligibility or extended FIP. BEM 518.

In this case, Claimant is an ineligible grantee because her nephew group member, who was a full-time high school student, became 18 years of age on April 4, 2011. In addition, Claimant's nephew became employed and started receive earned income. Now that Claimant's nephew is 18 years old, his income is counted. Claimant's nephew worked 12 hours per week and earned [REDACTED] per hour, which consisted of [REDACTED] monthly. [REDACTED] minus the standard income deduction of [REDACTED]. BEM 518. Policy requires the department to deduct an additional 20% from the remaining earnings which is [REDACTED]. According to the FIP monthly assistance payment standard for a group size of 1 (one), the payment amount for an ineligible grantee is [REDACTED] RFT 210. Policy requires the department subtract the

budgetable income [REDACTED] from the [REDACTED]0 payment standard which results in a [REDACTED] deficit. Thus, the proper FIP benefit amount is [REDACTED].

Accordingly, the department properly recalculated Claimant's FIP amount as [REDACTED]. The Administrative Law Judge finds that based on the material, substantial and competent evidence presented during the hearing, the department properly calculated Claimant FIP income pursuant to applicable policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's calculation of Claimant's FIP amount is correct and the department's actions are AFFIRMED.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/29/11

Date Mailed: 8/29/11

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 60 days of the filing of the original request.

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.

CAP/ds

[REDACTED]