

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-20236

Issue No: 3015; 1017

[REDACTED]

[REDACTED]

May 11, 2011

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing on [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly determine that Claimant was not eligible for FIP and FAP benefits due to excess income?

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 applied for FIP and FAP on January 20, 2011. (Hearing Summary).
2. On January 25, 2011, the department mailed Claimant a Notice of Case Action denying her application for the FIP and FAP programs due to excess income. (Department Exhibits 7-8).
3. The department received a Verification Checklist from Claimant's employer which, per a telephone conversation with the employer, states that Claimant is currently on medical leave and receiving short term disability in the amount of [REDACTED] a week.
4. Claimant submitted a letter dated January 14, 2011, from CIGNA Group Insurance. The letter shows Claimant received a check in the amount of [REDACTED] for benefits due for the period of December 14, 2010 through [REDACTED].

January 14, 2011. The letter explains that Claimant's disability contract provide for a weekly flat benefit of [REDACTED]. (Claimant's Exhibits 1-3).

5. Claimant submitted a hearing request on February 1, 2011, protesting the denial of her FIP and FAP application. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (BRM).

For FIP and FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from Child Development and Care (CDC), Medicaid (MA), Retirement, Survivors, and Disability Insurance (RSDI), Supplemental Security Income (SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, Claimant applied for FIP and FAP on January 20, 2011. Based on a Verification of Employment from Claimant's employer, the department was informed that Claimant was currently on medical leave and receiving short term disability of [REDACTED] a week. The department used this information in determining Claimant's FIP and FAP eligibility which resulted in Claimant being denied for both programs based on excess income.

During the hearing, Claimant credibly testified that she only received a one time payment of [REDACTED] in December 2010 and due to an error by the hospital, she had not received any further payments. Claimant submitted a letter dated January 14, 2011, from CIGNA Group Insurance. The letter informs Claimant that she would be receiving her first check in the amount of [REDACTED] for benefits due for the period of December 14, 2010 through January 14, 2011. In addition, the letter explains that her disability contract provided for a weekly flat benefit of [REDACTED] if her medical condition continued and she provided further medical documentation.

As a result, it appears the department relied on Claimant's employer's information in error, because Claimant was not receiving [REDACTED] a week in short term disability. Consequently, the Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department improperly denied Claimant's application for FIP and FAP benefits due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department erred in determining Claimant's FIP and FAP eligibility based on the erroneous information received from Claimant's employer.

The department's FIP and FAP eligibility determinations are REVERSED. The department shall redetermine Claimant's FIP and FAP eligibility based on her actual income received from CIGNA and award Claimant all supplement FIP and FAP benefits to which she is otherwise entitled back to the date of application.

It is SO ORDERED.

/s/
Vicki Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/17/11

Date Mailed: 5/17/11

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 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 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.

[REDACTED]