

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201131906
Issue No. 1017
Case No. [REDACTED]
Hearing Date: June 6, 2011
Wayne County DHS (76)

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 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 6, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, appeared and testified.

ISSUES

1. Whether DHS properly issued Claimant's initial Family Independence Program (FIP) benefits for the first half of 4/2011 based on a 3/11/11 application date.
2. Whether DHS properly factored Claimant's child support in determining Claimant's FIP benefit issuance.

FINDINGS OF FACT

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

1. On 3/11/11, Claimant applied for FIP benefits.
2. Claimant received court-ordered child support totals as follows: [REDACTED] for each month from 1/2011-3/2011 for two children and [REDACTED] in 1/2011, [REDACTED] in 2/2011 and [REDACTED] in 3/2011 for a third child.
3. DHS issued [REDACTED] in FIP benefits to Claimant effective 4/2011-6/2011.
4. DHS improperly budgeted Claimant's certified child support as voluntary support.

5. DHS improperly included certified support as income for Claimant in determining Claimant's FIP benefits.
6. On 5/2/11, Claimant requested a hearing concerning the commencement date and amount of FIP benefits.

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 (formerly known as the Family Independence Agency) 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) and the Reference Tables Manual (RFT).

For FIP benefit openings, the group is eligible for benefits no earlier than the pay period in which the application becomes 30 days old. BAM 400 at 2. It is useful to know that FIP payment periods are broken into halves of months; the first 15 days of a month consist of one FIP benefit period and the days from the 16th through the end of the month would be a separate FIP benefit period.

Claimant first contended that she was owed FIP benefits for 3/2011. It was not disputed that Claimant applied for FIP on 3/11/11 and that DHS issued Claimant's first FIP payment for the first half of 4/2011. The 30th day following Claimant's application date of 3/11/11 falls in the first pay period of 4/2011; thus, Claimant is entitled to FIP payments effective the first half of 4/2011, precisely what DHS issued.

Claimant was understandably confused because the DHS Hearing Summary referred to Claimant's application date of 4/15/11. However, the actual processing of Claimant's FIP benefit application factored the correct application date of 3/11/11. It is found that DHS issued Claimant's first FIP benefit payment for a proper time period.

Claimant also disputed the FIP benefit payment amount. The starting point for a FIP budget begins with determining the proper FIP payment standard.

The FIP payment standard is the maximum benefit amount that can be received by the benefit group. BEM 515 at 1. It is for shelter, heat, utilities, clothing, food and items for personal care. *Id.* Income is subtracted from the payment standard to determine the grant amount. *Id.*

It was not disputed that Claimant is part of a FIP benefit group of four persons. The payment standard for a four-person benefit group (eligible grantee) is \$597. RFT 210 at 1.

The only income at issue was child support income. Certified child support means court-ordered support payments sent to the DHS by the Michigan State Disbursement Unit. BEM 518 at 1. Bridges (the DHS database) excludes from the deficit test the amount of collections retained by the DHS. *Id.*

Voluntary and direct child support are countable in the eligibility determination. *Id.* at 2. At application, Bridges excludes up to \$50 in child support from the benefit month. Ongoing FIP eligibility determination does not exclude \$50. *Id.* Because of this distinction, two FIP benefit determinations are made, one for the application month and one for ongoing months. Note that once a FIP benefit case is active, DHS retains the client's child support payments to offset the FIP grant issuance. Because DHS is unable to retain the child support payments at case opening, the income is reduced from a client's initial FIP grant

To prospect child support income, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 at 3. For Claimant's initial FIP benefit issuance, DHS submitted a budget which verified that DHS calculated Claimant's monthly child support income as [REDACTED]. DHS did not clarify how this amount was calculated but submitted Claimant's child support payment history. Based on Claimant's direct child support, she received [REDACTED]/month for each month from 1/2011-3/2011 for two children and [REDACTED] in 1/2011, [REDACTED] in 2/2011 and [REDACTED] in 3/2011 for a third child. The average child support income would be [REDACTED], substantially less than the \$230 calculated by DHS. Thus, DHS erred in determining Claimant's initial child support income.

The DHS budget also revealed that Claimant's court-ordered direct child support was budgeted as "voluntary support" (i.e. support paid directly to a parent). This error is significant as DHS policy requires the deduction of voluntary child support (after the first \$50/month) from the maximum monthly FIP benefit issuance. For court-ordered child support, DHS does not reduce a client's FIP benefit grant; instead, DHS retains the child support so there would be no reason for DHS to count the support as income for Claimant's FIP benefit group.

There was no evidence that any of Claimant's child support was anything but court-ordered support. It is found that DHS erred in counting Claimant's direct child support as voluntary support.

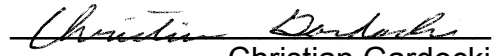
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly issued Claimant's initial FIP benefit issuance for the first half of 4/2011. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly determined Claimant's FIP benefit issuance beginning 4/2010 by improperly budgeting Claimant's child support income. It is ordered that DHS:

- redetermine Claimant's FIP benefit eligibility for 4/2011 and ongoing months by not counting court-ordered child support as voluntary support;
- redetermine Claimant's FIP benefit eligibility for 4/2011 and ongoing months by excluding certified child support;
- supplement Claimant for any FIP benefits not received as a result of the DHS errors.

The actions taken by DHS are PARTIALLY REVERSED.


Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 15, 2011

Date Mailed: June 15, 2011

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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cc:

[REDACTED]

Wayne County DHS (76)/1843

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Christian Gardocki

Administrative Hearings