

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-46480
Issue No. 1017
Case No. [REDACTED]
Load No. 8241000000
Hearing Date: September 8, 2011
Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, September 8, 2011. The Claimant appeared and testified. The Claimant's sister, [REDACTED] translated the Claimant's testimony. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the Department properly implemented the February 28, 2011 Hearing Decision regarding the Claimant's cash assistance ("FIP") benefits?

FINDINGS OF FACT

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

1. The Claimant was a FIP recipient.
2. Since January 2009, the Claimant's spouse received \$864.50/ month in Retirement, Survivors, and Disability Insurance ("RSDI") income. (Exhibit 1)
3. On February 28, 2011, a hearing was held which resulted in a Hearing Decision ordering the Department to recalculate the Claimant's FIP benefits to include the spouse's RSDI income. (Exhibit 2)

4. In response to the Hearing Decision, the Department calculated the Claimant's monthly FAP allotment as \$262.00. (Exhibit 3)
5. The FAP allotment included one-half of the spouse's income. (Exhibit 3)
6. On July 15, 2011, the Department received the Claimant's timely written request for hearing protesting the reduction of FAP benefits.

CONCLUSIONS OF LAW

The Family Independence Program 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 Michigan Administrative Code Rules 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 Bridges Reference Tables ("RFT").

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 500. All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500. RSDI income, a federal benefit administered by the Social Security Administration, is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503. The gross benefit amount is counted as unearned income. BEM 503.

In this case, the Department was ordered to include the spouse's RSDI income when recalculating the Claimant's FIP allotment. Since January 2009, the spouse received \$864.50/month in RSDI income. In calculating the Claimant's FIP benefits, the Department included only one-half (\$432.00) of the spouse's RSDI income as opposed to the total (\$864.50) monthly amount. As a result of the incorrect unearned income, the Department notified the Claimant that her FIP benefits were \$262.00. The Claimant disagreed with the monthly allotment and requested a hearing regarding the calculation of benefits as a result of the prior hearing. Policy requires that the monthly gross RSDI amount is used when determining FIP eligibility. This was not done. Ultimately, the Department failed to establish it acted in accordance with policy when it calculated the Claimant's FIP allotment in response to the February 28, 2011 hearing. Accordingly, the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Department did not act in accordance with Department policy when it recalculated the Claimant's FIP benefits.

Accordingly, it is ORDERED:

1. The Department's FIP calculation is REVERSED.
2. The Department shall recalculate the Claimant's FIP benefits in accordance with the Hearing Decision issued March 30, 2011 and certified on April 6, 2011.
3. The Department shall include the spouse's gross monthly RSDI income in determining FIP eligibility in accordance with Department policy.
4. The Department shall notify the Claimant of the determination in accordance with Department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 13, 2011

Date Mailed: September 13, 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.

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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.

CMM/cl

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