

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

IN THE MATTER OF:



Reg. No.: 201323278
Issue No.: 1022
Case No.: [REDACTED]
Hearing Date: May 15, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on May 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's October 23, 2012 application for Family Independence Program (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. On October 23, 2012, Claimant applied for FIP benefits for herself.
2. At the time of her application, Claimant was pregnant and did not have stable housing.
3. In processing Claimant's FIP application, the Department considered income received by Claimant's daughter and [REDACTED], the father of the child.
4. On January 4, 2013, the Department sent Claimant a Notice of Case Action denying her application because the countable income of the group, composed of Claimant, the child and [REDACTED], exceeded the FIP income limit for the group size.

5. On January 14, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

In this case, the Department sent Claimant a January 4, 2013 Notice of Case Action denying her October 23, 2012 FIP application because the group's countable income exceeded the FIP income limit for the group size. A FIP group consists of the dependent child and the child's legal parents who live together. BEM 210 (October 2011), p 4. At the hearing, the Department explained that it concluded that Claimant lived with her infant child and [REDACTED], the child's father, and included the child's and [REDACTED]' Retirement, Survivors and Disability Insurance (RSDI) income in the calculation of the group's countable income. Because the child's and [REDACTED]' income exceeded the payment standard for a group size of three, the Department concluded that Claimant's group was not eligible for FIP assistance. See BEM 518 (October 2012), p 1; RFT 210 (January 2009).

At the hearing, Claimant explained that she was pregnant, but not living with [REDACTED] and her child at the time she filed her October 23, 2012 FIP application. She credibly testified that, because she was the subject of a protective services' proceeding concerning the child, she was prohibited from living with the child from the time of the child's birth in April 2012 until the protective services' case was dismissed on December 21, 2012. Although the child lived with [REDACTED] during this period, Claimant explained that she did not have stable housing and moved from one friend's home to another, using [REDACTED]' address as her mailing address. The Department confirmed that in her application Claimant identified [REDACTED]' address as her mailing address, but she did not indicate that she lived in the home with [REDACTED]. Further, she indicated in the application that she was seeking FIP assistance for only herself. Pregnant women are eligible for FIP even if the group contains no eligible child. BEM 210, p 10. Under the circumstances described, Claimant did not live with [REDACTED] and her daughter at the time of her October 23, 2012 FIP application, and she applied for FIP for only herself. Because [REDACTED] and Claimant's daughter were not members of Claimant's group, their income could not be considered in determining Claimant's FIP eligibility. See BEM 210, pp 1-2. Because the Department improperly

used [REDACTED] and the child's income in determining Claimant's FIP income eligibility, the Department did not act in accordance with Department policy when it denied Claimant's FIP application on the basis that the Claimant's income exceeded the FIP income limit.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Claimant's October 23, 2012 FIP application.

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's October 23, 2012 FIP application;
2. Begin processing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from October 23, 2012, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/22/2013

Date Mailed: 5/22/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

