

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

IN THE MATTER OF:



Reg. No.: 201324267
Issue Nos.: 1017, 1080
Case No.: [REDACTED]
Hearing Date: May 13, 2013
County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 13, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) benefits for the benefit period of September 2012 through November 2012 due to excess child support?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FIP benefits.
2. On October 24, 2012, the Department was ordered to redetermine Claimant's eligibility for FIP benefits beginning September 1, 2012, ongoing, and issue retroactive benefits if Claimant was eligible. Exhibit 1.
3. Claimant requested a hearing regarding the implementation of the Hearing Decision based on the October 24, 2012, hearing.

4. On April 22, 2013, a hearing was held regarding the processing of the October 24, 2012, Hearing Decision.
5. As a result of the April 22, 2013, hearing, the Department was ordered to determine FIP eligibility for September 2012 through November 2012.
6. On an unspecified date, the Department denied Claimant's FIP benefits for the benefit period of September 2012 through November 2012 due to excess child support.
7. On December 18, 2012, Claimant filed a request for hearing stating that she did not receive retroactive FIP benefits for September 2012 through November 2012. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the 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.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA

program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

On April 22, 2013, a hearing was held which resulted in a decision that ordered the Department to determine FIP eligibility for September 2012 through November 2012. On an unspecified date, the Department denied Claimant's FIP benefits for the benefit period of September 2012 through November 2012 due to excess child support. On December 18, 2012, Claimant requested a hearing regarding FIP eligibility for September 2012 through November 2012. Exhibit 1.

Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). BEM 503 (July 2012), p. 5. Court-ordered child support may be either certified or direct. BEM 503, p. 5. Certified support is retained by the state due to the child's FIP activity. BEM 503, p. 5. Direct support is paid to the client. BEM 503, p. 5. Court-ordered direct support means child support payments an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU). BEM 503, p. 7. The Department counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider. BEM 503, p. 7.

For FIP cases, voluntary child support and direct child support are countable in the eligibility determination. BEM 518 (July 2012), p. 2. The group's total voluntary/direct support amounts are added to the gross monthly certified amount. BEM 518, p. 3. Up to \$50 from this amount is excluded. BEM 518, p. 3. The result is added to the group's net earned and other unearned income. BEM 518, p. 3. The resulting amount is compared to the eligible group's payment standard. BEM 518, p. 3. Here, the FIP income limit for a group size of 2 is \$403. RFT 210 (January 2009), p. 1. If the result is equal to or greater than the certified group's payment standard, the group is not eligible for assistance. BEM 518, p. 3.

At the hearing, the Department presented as evidence the September and October 2012 FIP Income Test documents (both documents contained the same calculations). Exhibit 1. The budget indicated that Claimant's total unearned income from child support was \$541. See Exhibit 1. The Department then excluded \$50 from the total unearned income which resulted in a total countable income of \$491. BEM 518, p. 3.

Because the \$491 countable income is in excess of the group's \$403 FIP payment standard, the Department determined that Claimant was not eligible for FIP benefits. BEM 518, p. 3. However, during the hearing, a problem arose of how the Department calculated the \$541 total unearned income. The Department also presented as evidence the Child Support Direct (court-ordered) payments from August 2012 through November 2012. Exhibit 1. A review of this document does not show how the Department calculated the \$541 total unearned income.

A review of the Child Support Direct (court-ordered) payments indicates that Claimant received irregular patterns of child support payments. See Exhibit 1. The Child Support Direct (court-ordered) document indicates that Claimant received the following child support payments: (i) \$616 for September 2012; (ii) \$162 for October 2012; and (iii) no payments for November 2012. See Exhibit 1. Based on the foregoing figures, Claimant is not entitled to FIP benefits for September 2012; however, she is entitled to benefits for October and November 2012. Claimant's total child support benefits for September 2012 exceeded the \$403 FIP payment standard. BEM 518, p. 3. However, Claimant's \$162 child support payments for October 2012 and no child support payments for November 2012 were below the \$403 FIP payment standard. BEM 518, p. 3. Thus, the Department properly denied Claimant's FIP benefits for September 2012; however, it improperly denied benefits for October and November 2012.

In summary, based on the April 22, 2013, hearing, the Department was ordered to redetermine Claimant's eligibility for FIP benefits beginning September 1, 2012, and issue retroactive benefits if otherwise eligible. The evidence showed that Claimant was not eligible for September 2012 FIP benefits; however, she was eligible for October and November 2012 benefits based on child support payments being lower than the \$403 FIP payment standard. BEM 518, p. 3.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department did act properly did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated above and on the record.

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

1. Begin recalculating the FIP budget for October and November 2012, including the child support payments made respectively for each month;
2. Issue supplements to Claimant for FIP benefits that she was entitled to receive, if otherwise eligible and qualified, for October and November 2012; and

3. Notify Claimant of its decision in writing in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 21, 2013

Date Mailed: May 23, 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

EJF/pf

cc:

