

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-44747
Issue Nos.: 1018
Case No.: ██████████
Hearing Date: July 3, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on July 3, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Eligibility Specialist/Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application due to excess income?

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 applied for FIP benefits on April 18, 2013.
2. On April 19, 2013, the Department sent Claimant a Notice of Case Action informing her that her application for FIP was denied because her countable income exceeded the limit. (Exhibit 3)
3. On April 26, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services 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.

In this case, Claimant submitted an application for FIP benefits on April 18, 2013. On April 19, 2013, the Department sent Claimant a Notice of Case Action informing her that her application had been denied because the countable income exceeds the limit for FIP purposes. (Exhibit 3). Claimant requested a hearing disputing the denial.

In order to receive FIP benefits, a client must establish that financial need exists. BEM 518. Financial need is established, in part, when an applicant passes the Qualifying Deficit Test. A client passes the Qualifying Deficit Test if the certified group's budgetable income (after applying the qualifying earned income disregard) for the income month is *less* than the certified group's payment standard for the application month. BEM 515 (November 2011), p 1; BEM 518 (November 2012), p 1. The payment standard is dependent on the FIP group size. The FIP monthly assistance payment standard for Claimant's confirmed group size of four is \$597.00. RFT 210 (January 2009).

Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503 (May 2013), pp. 5, 7

For FIP cases, the Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2010), p. 1. In prospectively budgeting income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding amounts that are that are unusual and not expected to continue. BEM 505, p. 3.

At the hearing, the FIP Income Test was reviewed. The Department determined that Claimant had unearned income of \$595.00, which came from child support. (Exhibit 1).

The Department testified that in calculating Claimant's unearned income from child support, it considered the three month average of \$366.68 received in February 2013; \$1,031.47 received in March 2013; and \$386.04 received in April 2013. (Exhibit 2);BEM 505, p. 3. Claimant testified that she receives child support in the amount of \$370.00 per month for one child. Claimant stated that in March 2013, she received a one-time, lump sum payment because the child's father owed in arrearages and that money was taken from his tax return. Claimant also testified that she only received \$687.00 in March 2013, not the \$1,031.47 referenced by the Department.

The amount of child support Claimant received in March was unusual and not expected to continue and therefore, should have been excluded from the calculation of unearned income from child support. BEM 505, p. 3. In addition, the Department improperly applied the immunization penalty of \$25.00 which brought down Claimant's payment standard to \$572.00. BEM 202 (October 2008), p.1. The penalty is not to be initiated at application, rather if it continues, it is applied at redetermination. BEM 202, p.2. The correct payment standard for Claimant's group size of four is \$597.00. RFT 210 (January 2009).

Because of the errors in the calculation of Claimant's unearned income from child support and the application of the incorrect payment standard, the Department did not act in accordance with Department policy when it denied Claimant's application for FIP benefits due to excess income.

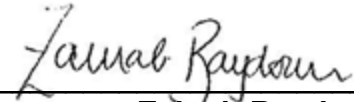
DECISION AND ORDER

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 application for FIP benefits due to excess income. Accordingly, the Department's FIP 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 April 18, 2013, FIP application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from April 18, 2013, ongoing; and

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



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 23, 2013

Date Mailed: July 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 affect the substantial rights of the claimant:
 - 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

ZB/cl

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[REDACTED]
[REDACTED]
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