

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No.: 2013-65880
Issue No.: 1001
Case No.: [REDACTED]
Hearing Date: December 9, 2013
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]
[REDACTED]

ISSUE

Did the Department properly deny Claimant's 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 August 1, 2013, Claimant applied for FIP benefits.
2. Claimant's household consists of Claimant, his wife, and their minor child.
3. On August 6, 2013, the Department sent Claimant a Notice of Case Action denying the application on the basis that Claimant's income exceeded the FIP income limit.
4. On August 19, 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Additionally, in order to receive FIP benefits, a client must establish that financial need exists. BEM 518 (July 2013), p. 1. 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 (July 2013), p. 1; BEM 518, p. 1. At application, the months subject to the qualifying deficit test are the first two application months in which the group could be eligible for an assistance payment. BEM 518, p. 1.

The payment standard is dependent on the FIP group size. Claimant's FIP group has three members: Claimant, his wife, and the couple's child. BEM 210 (July 2013), p. 5. The FIP monthly assistance payment standard for a group size of three is \$492. RFT 210 (January 2009), p. 1. Therefore, Claimant is eligible for FIP if his group's budgetable income is less than \$492.

An applicant with earned income is eligible for a qualifying earned income disregard in the calculation of his budgetable income. BEM 518, p. 5. The Department deducts \$200 from each person's countable earnings, then an additional 20% of each person's remaining earnings, as long as the total disregard does not exceed the total countable earnings. BEM 518, p. 5.

At the hearing, the Department presented a FIP income test showing its calculation of Claimant's FIP income eligibility. The income test showed earned income of \$885. Monthly income of \$885, after a \$200 deduction, further reduced by a 20% deduction, results in budgetable income of \$548. Because \$548 exceeds the applicable \$492 payment standard, Claimant would not be eligible for FIP if his gross income was \$885.

At the hearing, the Department testified that it based its calculation of Claimant's gross income on paystubs Claimant provided showing gross income of (i) \$653.05 on July 5, 2013, showing year-to-date earnings of \$8,663.57, and (ii) \$432 on August 2, 2013, with a year-to-date earnings of \$10,002.05. Although the Department testified that the July 19, 2013, paystub was not included in the file, consideration of the paystubs provided and the year-to-date earnings establish that the July 19, 2013, pay was \$906.48. Based

on this pay information, Claimant's actual gross monthly income considerably greater than \$885. Claimant testified that his income fluctuated from paycheck to paycheck, and the paystubs he provided are consistent with his testimony. However, even if Claimant's lowest biweekly pay of \$432 was considered and converted to a standard monthly amount, Claimant's gross monthly income would exceed \$885. See BEM 505 (July 2013), pp. 1, 7-8. Consequently, his gross countable income would exceed the \$492 payment standard. Thus, because the evidence established that Claimant's gross monthly earnings were greater than the amount considered by the Department, the Department acted in accordance with Department policy when it concluded that Claimant was not eligible for FIP in the application month.

Although the Department was required to consider the first two months in which the group could be eligible for an assistance payment, there was no evidence that Claimant notified the Department of changes in circumstances expected for September 2013 that would result in FIP eligibility. See BEM 518, pp. 2-3, 4-5. Because Claimant was not eligible for FIP in the application or subsequent month, the Department properly denied Claimant's FIP application.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Claimant's FIP application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin

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

Date Signed: December 10, 2013

Date Mailed: December 11, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]