

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24389
Issue No.: 1007
Case No.: [REDACTED]
Hearing Date: March 25, 2014
County: Macomb-12

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 March 25, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist/Hearing Facilitator).

ISSUE

Did the Department properly denied Claimant's application for Family Independence Program (FIP) benefits 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 on January 16, 2014.
2. Claimant had a household FIP group size of 3 (two minor children) and was employed at [REDACTED] at all relevant times.
3. On January 17, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied her FIP application, effective February 1, 2014, due to excess income. The DHS-1605 also provided the following comments: "FIP denial due to excess income from employment. Income verified by the work number. Food Stamps and Medicaid continues."
4. On January 30, 2014, the Department received Claimant's request for hearing to dispute the FIP application denial.
5. The Department recomputed Claimant's FIP budget to verify that Claimant's income was correct and again found Claimant was excess income.

6. On January 31, 2014, the Department mailed Claimant a notice of case action which again denied Claimant's FIP due to excess income.
7. On February 7, 2014, Claimant again requested a hearing concerning the denial of her FIP application due to excess income.

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.

For FIP, financial need must exist to receive benefits. Financial need exists when the certified group passes the Qualifying Deficit Test, Issuance Deficit Test and the Child Support Income Test. BEM 518, p 1 (7-1-2013).

At application, the Department's computer system known as "Bridges" performs the qualifying deficit test by subtracting budgetable income from the certified group's payment standard for the application month; see BEM 515. BEM 518, p 1. To perform the issuance deficit test, Bridges subtracts budgetable income from the certified group's payment standard for the benefit month. BEM 518, p 1. To meet the child support income test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the certified group's payment standard. BEM 518, p 1. Financial need exists if: (1) there is at least a \$10 deficit after income is budgeted in the issuance deficit test; (2) the group passes the child support income test. BEM 518, p 1. If the group fails either test, the group is ineligible for assistance. BEM 518, p 1.

Income deductions are available at both the member and the group level. Apply deductions in the order they are presented in this item. BEM 518, p 5. At application, the Department will deduct \$200 from each person's countable earnings. Then deduct an additional 20 percent of each person's remaining earnings. The total disregard cannot exceed countable earnings. The Department will deduct \$200 from each person's countable earnings. Then deduct an additional 50 percent of each person's remaining earnings. The total disregard **cannot** exceed countable earnings. Apply this disregard separately to each program group member's earned income. BEM 518, p 5.

Here, the Department contends that Claimant's FIP application was properly denied due to excess income. Claimant, on the other hand, disputes the Department's contentions and asserts that the Department failed to consider all relevant income deductions such as: rent, utilities and other bills.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Claimant does not dispute the Department's calculation of her monthly income from her employment at [REDACTED]. Rather, Claimant simply states that she has expenses that she feels should be considered when determining her countable income. Policy controls what expenses are used when determining the FIP allotment.

BEM 515 (7-1-2013) governs FIP needs budgeting. The payment standard is the maximum benefit amount that can be received by the certified group. Income is subtracted from the payment standard to determine the grant amount; see BEM 518. The grant amount is for shelter, heat, utilities, clothing, food and items for personal care. The Department determines the correct payment standard based on the program, certified group size, and living arrangement (SDA) or grantee status (FIP/RCA). See BEM 515, p. 1. Policy does not permit income exclusions for rent, utilities, etc., when determining FIP income eligibility.

The Department included a copy of the FIP budget in the record. This budget shows that Claimant had a certified group size of 3, which has a payment standard of \$ [REDACTED]. See RFT 210. The Department budgeted Claimant's monthly earned income as \$ [REDACTED] minus \$ [REDACTED] and then again subtracted \$ [REDACTED] which leaves a net earned income standard of \$ [REDACTED]. Even after the Department deducted \$ [REDACTED] for child support payments made, Claimant's monthly income equaled \$ [REDACTED] which is the payment standard under RFT 210. Claimant did not meet the FIP payment standard. When the Department rebudgeted Claimant's earned income, the Department used \$ [REDACTED] for monthly earned income minus \$ [REDACTED] and subtracted \$ [REDACTED] which became \$ [REDACTED] for net earned income. When the Department subtracts \$ [REDACTED] it becomes \$ [REDACTED] which exceeds the \$ [REDACTED] FIP payment standard. Claimant again failed the income test for FIP eligibility.

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 based on excess income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 1, 2014

Date Mailed: April 1, 2014

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.

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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

CAP/las

cc:

