

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201434299
Issue No(s): 1007
Case No.: [REDACTED]
Hearing Date: May 22, 2014
County: Wayne (17)

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 May 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED], Claimant's wife; and [REDACTED], Claimant's attorney and translator. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly reduce Claimant's 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. Claimant's household consists of Claimant, his wife, and their five minor children.
2. Claimant's wife is a permanent resident with a FX 1 class code who entered the United States on September 12, 2012.
3. Claimant is an ongoing recipient of FIP benefits with a group consisting of him and his five children.
4. On January 1, 2014, Claimant began receiving gross monthly Retirement, Survivors and Disability Income (RSDI) benefits of \$794.90.

5. On January 27, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FIP benefits would be reduced to \$33 monthly effective March 1, 2014 ongoing.
6. On March 28, 2014, 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Additionally, on January 27, 2014, the Department sent Claimant a Notice of Case Action notifying him that effective March 1, 2014, his FIP benefits would decrease to \$33 monthly. Claimant requested a hearing.

In order to receive FIP benefits, the Department must determine that financial need exists. BEM 518 (July 2013), p. 1; BEM 515 (July 2013), p. 1. Under Department policy, financial need for FIP purposes is established, in part, when the client's certified group passes the Issuance Deficit Test. BEM 518, p. 1. A client passes the Issuance Deficit Test if the client's certified group's payment standard exceeds the group's budgetable income for the benefit month by at least \$10. BEM 518, pp. 2-3. The payment standard is dependent on the client's FIP certified group size. BEM 515, p. 1.

In this case, the Department applied a \$828 payment standard based on a FIP certified group size of six. The January 27, 2014 Notice of Case Action shows that the six members of Claimant's FIP certified group were Claimant and his five minor children. The Department testified that Claimant's wife was excluded from the group because she did not meet the criteria for eligibility based on her alien status.

A parent who does not meet a nonfinancial eligibility factor is not in the FIP certified group. BEM 515, p. 1; BEM 210 (July 2013), pp. 13-14. One nonfinancial FIP eligibility factor is the requirement that a person is a U.S. citizen or has acceptable alien status. BEM 225 (January 2014), p. 1. A permanent resident alien with a class code on the permanent residency card (I-551) other than RE, AM or AS is disqualified from FIP eligibility for the first five years in the U.S. BEM 225, p. 7.

The evidence in this case established that Claimant's wife entered the U.S. on September 12, 2012. Because she had a class code other than RE, AM or AS on her permanent residency card and had not been in the U.S. for five years, the Department properly excluded her from the FIP certified group. Therefore, the Department properly concluded that there were six certified FIP group members: Claimant and his five minor children.

Based on a certified group size of six, the applicable payment standard is \$828. RFT 210 (December 2013), p. 1. To determine the amount of a FIP grant a client is eligible to receive, the client's countable income is subtracted from the client's payment standard. BEM 515 (July 2013), p. 1; BEM 518, p. 4.

A FIP group's countable income includes gross RSDI income. BEM 503 (January 2014), p. 28. The evidence in this case established that beginning January 1, 2014, Claimant received gross monthly RSDI income of \$795. Although the Social Security Administration withheld amounts for payment of Claimant's Part B Medicare premium, bringing Claimant's net monthly payment to \$690, amounts withheld by the issuing agency to pay health insurance premiums are considered part of the gross income. BEM 500 (January 2014), p. 4. Therefore, the Department properly considered Claimant's gross monthly RSDI income of \$795 in calculating his FIP eligibility.

In calculating FIP countable income, a deduction from gross income is available for groups with earned income or paid-out court-ordered child support. BEM 518, pp 5-6. Neither of these deductions was available in this case. Therefore, Claimant's countable income is his gross monthly \$795 RSDI benefits. Because the \$828 payment standard that applies to Claimant's FIP group exceeds his \$795 countable income by \$33, Claimant is eligible for \$33 in monthly FIP benefits.

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 reduced Claimant's monthly FIP benefits to \$33 effective March 1, 2014.

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: June 11, 2014

Date Mailed: June 11, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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/tlf

cc:

