

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003671
Issue No.: 1001
Case No.: [REDACTED]
Hearing Date: May 12, 2015
County: Oakland (3) Southfield

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant, and [REDACTED], sister and Authorized Hearing Representative (AHR). [REDACTED] also provided interpretation services. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Assistance Payments Supervisor (APS).

ISSUE

Did the Department properly determine Claimant's eligibility for the Family Independence Program (FIP)?

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 three times in October and November 2014.
2. On January 12, 2015, the Department indicated a prior FIP denial may have been in error because Claimant's son ([REDACTED]) was reported to be a citizen; and the case was to be re-instated/reviewed.
3. On January 28, 2015, a Notice of Case Action was issued to Claimant stating FIP was denied, in part based on Claimant's son ([REDACTED]) not being a dependent child.

4. On February 17, 2015, Claimant re-applied for FIP.
5. On February 19, 2015, a Notice of Case Action was issued to Claimant stating FIP was denied, in part noting this was based on income from a \$ [REDACTED] per month donation that exceeds the program income limit.
6. On March 10, 2015, Claimant filed a hearing request contesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.3131.

Family Independence Program group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. To be eligible for FIP, the group must include a dependent child who lives with a legal parent, step-parent or other qualifying caretaker. BEM 234, October 1, 2014, p. 1.

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

In this case, the testimony of the APS confirmed that two Notices of Case Action regarding FIP were issued to Claimant within the 90 days prior to the filing of the March 10, 2015 hearing request. See BAM 600, January 1, 2015, p. 6.

No copy of the January 28, 2015, Notice of Case Action was included in the Department's hearing exhibits. The APS testified that the reasons on this notice included Claimant's son (A.M.A.) not being eligible because he is not a dependent child. The testimony also established that Claimant's son ([REDACTED]) is [REDACTED] years old. Accordingly, the APS agreed that at age [REDACTED] the child is a dependent; and this case action should be re-determined.

However, the evidence was not definitive regarding what FIP application was denied on the January 28, 2015, Notice of Case Action. It was not clear that another FIP application was filed in January 2015. The testimony of the APS indicated there were three applications in October 2014 and November 2014. A January 12, 2015, case note from the Department worker indicates that a prior FIP denial may have been in error because Claimant's son (██████) was reported to be a citizen; and the case was to be re-instated/reviewed. This case note did not specify whether an October 2014 or November 2014 application was to be reinstated. There was no evidence of a change in the child's citizenship between October 2014 and November 2014. Accordingly, the Department should re-determine FIP eligibility back to the first October 2014 application date.

The February 19, 2015, Notice of Case Action was submitted. It was clear that this case action relates to a February 17, 2015, FIP application. The specialist comment on this notice states that FIP was denied because Claimant's \$██████ per month donation income exceeds program limits. However, the listed reasons and related policy citations on this notice all relate to other eligibility criteria, again including Claimant's son (A.M.A.) not being a dependent child. Further, the Department did not provide sufficient evidence regarding the income determination, such as an income budget or the applicable Qualifying Deficit Test and/or Issuance Deficit Test program limits and results. Lastly, Claimant and her AHR disputed that Claimant reported to the Department that she receives a \$██████ per month donation. Rather, the case notes document that Claimant has repeatedly reported this was misinterpreted during the phone interview. It was uncontested that an interpreter was utilized for a February 17, 2015, phone interview. Overall, the Department did not provide sufficient evidence to determine that the February 19, 2015, FIP determination was in accordance with Department policy.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's eligibility for FIP.

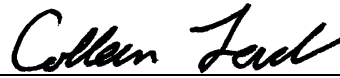
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-determine Claimant's eligibility for FIP back to the first October 2014 application and for the February 17, 2015, application in accordance with Department policy.

2. Issue written notice of the determination(s) in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/27/2015**

Date Mailed: **5/27/2015**

CL / jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

