



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: January 14, 2019
MAHS Docket No.: 18-012091
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 45 CFR 205.10, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 9, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Family Independence Manager, Krista Hainey, Regulation Agent, Jacqualian Yancey-Turner, and Program Manager, Michelle Connell, appeared for the Department. Neither party had any additional witnesses.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner receives income from social security (RSDI and SSI). One of Petitioner's minor children who lives with her also receives income from social security (SSI).
2. On [REDACTED] 2018, Petitioner applied for FIP from the Department. In her application, Petitioner stated her address was [REDACTED] in [REDACTED] [REDACTED] Petitioner listed that it was her and her four minor children living in the same household. Petitioner reported that her children's father, [REDACTED] [REDACTED] was not living in the same household.
3. On [REDACTED] 2018, [REDACTED] [REDACTED] completed an employee form for his employer in which he listed his address as [REDACTED] in [REDACTED] [REDACTED]

4. On [REDACTED], 2018, the Department contacted Petitioner and asked her about [REDACTED]. Petitioner responded that she did not know where he lived and that she did not know how to contact him.
5. At the time, [REDACTED] [REDACTED] was employed by Petitioner as her home help provider. [REDACTED] [REDACTED] was earning \$ [REDACTED] bimonthly from providing home help services for Petitioner.
6. On [REDACTED], 2018, the Department issued a Notice of Case Action which notified Petitioner that her request for FIP was denied effective [REDACTED], 2018, because her group's countable earnings exceeded the program limit. The Department included [REDACTED] [REDACTED] as a group member and considered the income from his employment as Petitioner's home help provider.
7. On [REDACTED] 2018, Petitioner filed a hearing request to dispute the Department's decision.

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.

The Department correctly included [REDACTED] [REDACTED] as a group member and considered his income. Petitioner had an obligation to cooperate with the Department so that the Department could determine her eligibility. BAM 105 (January 1, 2018). Petitioner refused to cooperate when she denied having any contact information for [REDACTED] [REDACTED]. The Department then investigated [REDACTED] [REDACTED] without Petitioner's assistance and determined that he was employed by Petitioner and that he used the same address as Petitioner. Based on this information, the Department properly determined that [REDACTED] [REDACTED] should be included as a member of Petitioner's group and his income should be considered in determining her FIP eligibility.

However, the Department did not present sufficient evidence to establish The Department correctly determined Petitioner's FIP eligibility. Specifically, the Department did not present any evidence of the budget it used to determine Petitioner's FIP eligibility. It is unclear how the Department determined Petitioner's group size and whether it was correct. It is also unclear how the Department determined the Petitioner's group's income, whether the Department considered any applicable earned

income exclusions, and whether its income determination was correct. Without any budget information, the undersigned is unable to determine whether the Department made the correct determination of Petitioner's FIP eligibility pursuant to its policies and the applicable law.

DECISION AND ORDER

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 did not act in accordance with its policies and the applicable law when it determined Petitioner's eligibility for FIP.

IT IS ORDERED the Department's decision is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of its determination of Petitioner's FIP eligibility.

JK/nr



Jeffrey Kemm
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; 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

DHHS

Cindy Tomczak
401 Eighth Street
PO Box 1407
Benton Harbor, MI
49023

Berrien County DHHS- via electronic mail

BSC3- via electronic mail

G. Vail- via electronic mail

B. Cabanaw- via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI
[REDACTED]