



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: January 24, 2020  
MOAHR Docket No.: 19-013189  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **HEARING DECISION**

Following Petitioner'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; 42 CFR 438.400 to 438.424; 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 January 21, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Isaac Colon, Family Independence Specialist and Melissa Brandt, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) benefit case?

### **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 was an ongoing FIP recipient.
2. In December 2019, the Department conducted a review of Petitioner's FIP eligibility.
3. Petitioner's household consisted of himself and three dependent children.
4. One of the dependent children had income from employment (Exhibit A, pp. 26-27).
5. All three dependent children received child support income (Exhibit A, pp. 13-20).

6. On December 13, 2019, the Department sent Petitioner a Notice of Case Action informing him that his FIP benefit case was closing effective January 1, 2020, ongoing (Exhibit A, pp. 9-10).
7. On December 16, 2019, Petitioner submitted a request for hearing disputing 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.

In this case, Petitioner was an ongoing FIP recipient. In December 2019, Petitioner's FIP benefit case was subject to a yearly review. The Department determined that Petitioner did not meet the financial need requirement for FIP eligibility. Financial need exists if there is at least a \$10 deficit after income is budgeted in the issuance deficit test. BEM 518 (October 2015), p. 2. As a result, the Department closed Petitioner's FIP benefit case.

For ongoing FIP recipients, the Department applies the issuance deficit test to determine whether the client is eligible for FIP and the amount of the FIP grant. The issuance deficit test compares (i) the group's budgetable income for the income month decreased by the issuance earned income disregard to (ii) the certified group's payment standard for the benefit month. BEM 518, p. 4. If the issuance deficit test results in no deficit or a deficit of less than \$10, the client is ineligible for FIP for the benefit month. BEM 518, p. 4. The Department presented a FIP budget to establish that Petitioner failed the issuance deficit test (Exhibit A, pp. 39-40).

The Department determined that Petitioner had a payment standard of \$420. The payment standard is determined by the FIP group size and whether there is an eligible or ineligible grantee. RFT 210 (April 2017), p.1. The Department will use the ineligible grantee standard when the grantee is not a member of the program group. RFT 210, p. 1. Ineligible grantee status includes grantees who are caretakers who are optional group members and choose not to be in the group. RFT 210, p. 1. Petitioner elected only to receive FIP benefits on behalf of the children. Therefore, Petitioner is limited to the ineligible grantee payment standard. Two of the children in Petitioner's custody were minors. The third child in Petitioner's home, that is the sibling of the two minor children, turned ■ years old in August 2019. However, that child was still a fulltime high school

student. Individuals that are designated as mandatory FIP group members are a dependent child and the child's legal siblings who meet the definition of a dependent child. BEM 210, p. 5. A dependent child is an unemancipated child who lives with a caretaker and is under 18 or age 18 and a fulltime high school student. BEM 210, p. 2. Therefore, all three children are included in the FIP group. The payment standard for a group size of three with an ineligible grantee is \$420.

For FIP benefit cases, a standard monthly earned income amount must be determined for each income source used in the budget. BEM 505 (October 2017), p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9. Income received weekly is multiplied by a 4.3 multiplier. BEM 505, pp. 7-9. Income received twice per month is added together. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (October 2019), pp. 6-7.

Per the budget provided, the Department determined that the FIP group had a standard monthly earned income amount of \$[REDACTED]. The Department testified that the earned income included was from income from employment from the dependent child in the group that was [REDACTED] years old. As stated above, the child is a mandatory group member, and therefore, her earnings are considered when determining FIP eligibility. Additionally, the child does not qualify for the student earnings disregard, as the income exclusion only applies to individuals that are: (i) under age 18 (ii) attending elementary, middle or high school including attending classes to obtain a GED; and (iii) living with someone who provides care or supervision. BEM 501, p. 2. Thus, the Department properly included the child's income.

The Department presented the child's Employment-Pay Details report showing her income from employment. The Department testified that the figures were retrieved from pay statements submitted by Petitioner. The document shows that the child was paid on November 14, 2019, in the gross amount of \$[REDACTED] and on November 28, 2019, in the gross amount of \$[REDACTED]. The child was paid biweekly. When averaging the figures and multiplying by the 2.15 multiplier, it results in a standard monthly income of \$[REDACTED]. Therefore, the Department properly calculated the group's standard monthly earned income amount.

The issuance earned income disregard reduces each person's countable earnings by \$200 and then by an additional 50% of the person's remaining earnings. BEM 518, p. 6. The groups standard monthly income of \$[REDACTED] reduced by \$[REDACTED] is \$[REDACTED]. 50% of \$[REDACTED] is \$[REDACTED], as correctly shown as the groups total net income on the FIP budget.

When determining FIP income eligibility, certified child support is excluded from the deficit test. BEM 518, p. 2. Certified support means court-ordered support payments sent to the Department. BEM 518, p. 2. Voluntary or direct child support payments are countable in the eligibility determination. BEM 518, p. 2. The Department will exclude up

to \$50 received from either in the benefit month. BEM 518, p. 2. When calculating child support income, the Department uses the monthly average of the child support payments received in the past three calendar months, unless changes are expected. BEM 505, p. 4. If there are known changes that will affect the amount of the payments in the future, the Department will not use the previous three months. BEM 505, p. 4. If the past three months' child support is not a good indicator of future payments, the Department will calculate an expected monthly amount for the benefit month based on available information and discussion with the client. BEM 505, p. 5.

Per the budget provided, the Department included [REDACTED] in child support income. The Department presented the FIP group's child support Consolidated Inquiry report showing the amount of child support received for each of the children in the FIP group (Exhibit A, pp. 13-20). The document shows that the child support was direct support, and therefore, was properly included in the deficit test. The Consolidated Inquiry shows that for September 2019, all of the children received \$[REDACTED], in October 2019, all of the children received \$[REDACTED] and in November 2019, all of the children received \$[REDACTED]. When averaging the child support received for the three calendar months for all three children, it results in a standard monthly amount of \$[REDACTED].

The Department combined the FIP group's net earned income of \$[REDACTED] with the countable unearned income in the form of child support in the amount of \$[REDACTED] and reduced the total income by the \$[REDACTED] child support exclusion. The FIP group's total countable income was \$[REDACTED] which well exceeds the FIP group's payment standard of \$420. As a result, the Department closed Petitioner's FIP benefit case.

At the hearing, Petitioner argued that the Department erred when calculating the child support income. Petitioner stated that the figures in the Consolidated Inquiry report do not accurately reflect the amount of child support that is received. Petitioner presented his bank statement showing the amount of child support deposited into his bank account (Exhibit 1, pp. 1-3). The document shows that Petitioner received payments on September 3, 2019, in the amount of \$[REDACTED]; on September 9, 2019, in the amount of \$[REDACTED]; on September 16, 2019, in the amount of \$[REDACTED]; on September 23, 2019, in the amount of \$[REDACTED] and on September 30, 2019, in the amount of \$[REDACTED]. The total amount of child support received for September 2019 was \$[REDACTED]. Petitioner's statement shows that he only received one child support payment in October 2019, in the amount of \$[REDACTED]. In November 2019, Petitioner received a payment on November 6, 2019, in the amount of \$[REDACTED] on November 8, 2019, in the amount of \$[REDACTED] and on November 22, 2019, in the amount of \$[REDACTED]. Petitioner's total child support payment for November 2019 was \$[REDACTED]. When averaging the figures over the three-month period, it results in a standard monthly child support income amount of \$[REDACTED].

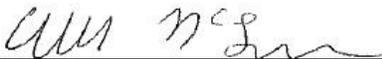
Although there is a discrepancy between the figures listed in the Consolidated Inquiry and those in Petitioner's bank statement, Petitioner still does not qualify for FIP benefits when utilizing the figures in the bank statement. When combining the groups net earned income amount of \$[REDACTED] with the child support income of \$[REDACTED] and reducing that figure by the \$[REDACTED] child support exclusion, it results in a total countable income amount

of \$ [REDACTED]. The FIP groups countable income compared to the payment standard of \$ [REDACTED] does not result in a deficit. Therefore, Petitioner is not eligible for FIP benefits. Thus, the Department acted in accordance with policy when it closed Petitioner's FIP benefit case.

**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 acted in accordance with Department policy when it closed Petitioner's FIP benefit case. Accordingly, the Department's decision is **AFFIRMED**.

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**Ellen McLemore**  
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Ionia-Hearings  
B. Sanborn  
B. Cabanaw  
BSC3- Hearing Decisions  
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**Petitioner – Via First-Class Mail:**

