



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: December 23, 2020
MOAHR Docket No.: 20-007035
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held on December 16, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Alberta Frazier, specialist

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of October 2020, Petitioner was an ongoing FIP recipient as a member of a 3-person benefit group.
2. Beginning October 3, 2020, Petitioner received ongoing gross biweekly unemployment compensation benefits (UCB) of \$398.
3. On October 15, 2020, MDHHS mailed Petitioner notice of FIP closure beginning November 2020 due to excess income.

4. On October 26, 2020, Petitioner requested a hearing to dispute the termination of FIP benefits.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FIP benefits. Exhibit A, p. 4. A Notice of Case Action dated October 15, 2020, stated that Petitioner's FIP eligibility would end November 2015 due to excess income. Exhibit A, pp. 10-13.

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 (October 2015), p. 1. To perform the issuance deficit test, MDHHS subtracts budgetable income from the certified group's payment standard for the benefit month. The group is ineligible for the benefit month if no deficit exists or the group has a deficit less than \$10. *Id.* pp. 1-3. The payment standard is the maximum benefit amount that can be received by the group. BEM 515 (October 2020) p. 1.

MDHHS presented a FIP budget listing the calculations used to determine Petitioner's FIP eligibility. Exhibit A, p. 5. The FIP budget process is outlined in BEM 520.

For FIP, MDHHS is to count gross unemployment benefits. BEM 503 (January 2020) p. 37. Stable or fluctuating biweekly income is converted to a monthly amount by multiplying the average income by 2.15. BEM 505 (October 2017) p. 8. UCB records listed ongoing biweekly gross UCB payments of \$398 to Petitioner beginning October 3, 2020. Exhibit A, pp. 7-9. Multiplying Petitioner's stable biweekly income by 2.15 results in a countable monthly unearned income of \$855 (dropping cents).¹ MDHHS did not factor any other income. For purposes of FIP eligibility, Petitioner's budgetable income is \$855.

Petitioner testified that MDHHS failed to factor her vehicle costs, rent, and utilities. Rent and utilities are relevant to Food Assistance Program eligibility, but not in calculating a client's FIP eligibility. Vehicle costs are not relevant to either. For FIP benefits, deductions are only given for earned income, paid child support, and a spousal deduction. BEM 518 (January 2020) pp. 5-6. Petitioner alleged no relevant expenses.

¹ Petitioner expressed uncertainty of the definition of unearned income. Generally, unearned income is non-employment income (see BEM 503 for types of unearned income).

It was not disputed that Petitioner was a member of a 3-person benefit group.² The payment standard for a 3-person FIP group is \$492. RFT 210 (April 2017) p. 1. Subtracting Petitioner's budgetable income of \$855 from the payment standard of \$492 results in a deficit. Thus, Petitioner is not eligible for FIP benefits.

Petitioner also testified that she received FIP benefits in July 2020 despite having additional income. Petitioner's testimony, assuming its accuracy, does not change her later ineligibility.³

Given the evidence, MDHHS properly determined that Petitioner was ineligible for FIP benefits beginning November 2020. Thus, MDHHS properly terminated Petitioner's FIP eligibility.

² See BEM 210 for FIP group policy.

³ The evidence suggested that MDHHS may have not counted Petitioner's income resulting in an erroneous issuance of benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's FIP eligibility beginning November 2020. The actions taken by MDHHS are **AFFIRMED**.

CG/tm



Christian Gardocki
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-Wayne-15-Hearings
B. Sanborn
M. Schoch
BSC4
MOAHR

Petitioner – Via First-Class Mail:

