

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2007-22732

Issue No: 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 1, 2009

Schoolcraft County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on April 1, 2009 in Manistique. Claimant personally appeared and testified under oath.

The department was represented by Lisa Holbrook (ES).

ISSUE

Did the department correctly budget claimant's husband's self-employment income during the March 2007 FAP eligibility review?

FINDINGS OF FACT

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

- (1) Claimant and her husband and her minor child are former FAP recipients.
- (2) In March 2007, the caseworker completed a FAP eligibility review for the eligibility period April 2007 to March 2008.

(3) In 2006, claimant and her husband had self-employment income from

[REDACTED]

(4) During the period in question, claimant had RSDI income of \$562 per month and her son had RSDI income of \$61 a month for a total of \$623 of monthly unearned income.

(5) In order to evaluate claimant's self-employment income for the certification period, April 2007 to March 2007, the caseworker was instructed by her supervisor to use

[REDACTED] self-employment income from 2006.

(6) Claimant submitted an IRS Schedule "C" Profit and Loss statement covering 12 months of operation (2006).

(7) The Schedule "C" was prepared by a tax adviser retained by [REDACTED]

(8) The 2006 Schedule "C" provides the following:

* * *

Line 7: Gross Income--\$33,742.

Line 28: Total Expenses--\$18,359.

(9) The caseworker used claimant's 2006 Schedule "C" to convert claimant's yearly income to a monthly figure. The 2006 self-employment income (\$33,742) was converted to estimated monthly income of \$2,811.83. The 2006 yearly expenses were converted to a monthly amount of \$1,529.91. The caseworker then subtracted the estimated monthly expenses (\$1,529.91) from the estimated monthly income (\$2,811.83) and obtained monthly projected self-employment income of \$1,281 for 2007.

(10) Using the information obtained from the 2006 Schedule "C," the caseworker prepared the following FAP eligibility budget:

Total earned income--\$1,281; less, earned income allowance--\$257; plus unearned income (RSDI)--\$623; adjusted gross income--\$1,522.

(11) Using these figures, the caseworker determined that claimant's eligibility for FAP for the certification period of April 2007 to March 2008 was zero.

(12) On March 31, 2007, the caseworker notified claimant that her FAP allowance for the relevant certification period was zero. Claimant's FAP case closed on March 31, 2007, due to excess income.

(13) On June 27, 2007, claimant requested a hearing.

(14) Claimant thinks that the caseworker incorrectly calculated her FAP eligibility for the certification period in question because the caseworker used claimant's 2006 self-employment income from the Schedule "C," which was calculated on a 12-month basis. Claimant thinks that her food stamp self-employment income should have been calculated on a month-to-month basis.

(15) Claimant also thinks that the caseworker misinformed her about the budgeting process for persons having self-employment income who are applying for FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The department's income and eligibility manuals provide for a FAP budgeting system to determine FAP eligibility. FAP eligibility is calculated by the department's computer system based on household size and earned and unearned income, if any. PEM 500-550; PAM 105, 110, 115 and PRT, page 1. See also PEM 554. The department's policy provides that all other income received by the household group must be counted as household income for FAP eligibility purposes. PEM 500; 7 CFR 273.9. The caseworker, after consulting with her supervisor, correctly used the 2006 Schedule "C" to estimate [REDACTED] self-employment income for the April 2007 certification period.

The preponderance of the evidence in the record shows that the department gave claimant the proper allowances during the computation of claimant's eligibility for the certification period, April 2007 to March 2008.

The Administrative Law Judge has no authority to modify the department's income eligibility budgeting procedures to accommodate claimant's expectation that her monthly computations of the household's income and expenses could be used to determine FAP eligibility for the appropriate certification period.

There is no evidence of arbitrary or capricious action on behalf of the department during the eligibility evaluation procedures which the caseworker performed in March 2007.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly budgeted claimant's self-employment income and correctly determined claimant's FAP allotment (0) for the certification period April 2007 to March 2008.

Therefore, the department's actions are, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 6, 2009

Date Mailed: April 7, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JWS/tg

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