

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: 2008-22515
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 7, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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, a telephone hearing was conducted from Kalamazoo, Michigan on January 7, 2009.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance benefits (FAP)?

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 is a FAP recipient.
2. Claimant was deemed to be non-compliant with Work First on [REDACTED].

(Exhibits 1, 3, 4, 5) As a result, Claimant's FIP grant was budgeted as income for the months of [REDACTED] and she was removed from the group which resulted in her not receiving FAP

benefits for the months of [REDACTED]. Claimant appealed this decision on March 12, 2008, but signed a hearing request withdrawal on March 27, 2008. (Exhibit 12)

3. On [REDACTED], Claimant provided verification of her employment and the Department completed a new FAP budget (Group size 2, not including Claimant) based her [REDACTED] paycheck, her prospective income for the remainder of the month and her FIP grant which resulted in a FAP allotment of [REDACTED]/mo. (Exhibit 6)

4. On the same date, the Department also completed a budget (Group size 3, including Claimant) without the FIP grant for the month of [REDACTED] which resulted in a FAP allotment of [REDACTED]/mo. (Exhibit 8)

5. On May 19, 2008, Claimant requested a hearing regarding the computation of her FAP benefits.

6. Claimant testified that she understood why she did not receive FAP benefits in [REDACTED], but that her income was less in the month of [REDACTED] than she initially reported to the Department. She testified that she called the Department at the end of [REDACTED] and reported this and was never asked to provide an employer verification and/or her paystubs. The Department testified that Claimant did call and report that she was not making what she reported at the time of her application, but Claimant did not respond to the May 23, 2008 Verification Checklist (Exhibit 10) or provide her paystubs to the Department.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the

FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

For FAP purposes, all earned and unearned income available to the Claimant is countable. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Unearned income means ALL income that is not earned and includes RSDI and SSI. PEM 500. For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP – 10 calendar days). PEM 505.

The Department determines a client’s eligibility for program benefits based on the client’s actual income and/or prospective income. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client’s future income for future benefits. In some cases, the department’s estimate of the client’s future monthly income will not equal the actual income received however, as long as the Department uses the best available information to determine future income, and there is no concealed information or mathematical error, the Department’s estimate will not be determined inaccurate. All income is converted to a monthly amount. PEM 505.

All countable earned and unearned income available to the client must be considered in determining the Claimant’s eligibility for program benefits. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500.

The FIP grant should be budgeted on the FAP budget for the number of months that corresponds with the FIP penalty (either three months for the first two noncompliances or 12

months for the third and subsequent noncompliances) after the FIP closes for employment and/or self-sufficiency-related noncompliance. PEM 233B, p.2.

In the instant case, there is no question that the Department used the appropriate income and expenses in completing the FAP budget for [REDACTED]. If a Claimant's income changes, it must not only be reported to the Department, but documented either by the employer or the Claimant. With the above said, I find that the Department followed policy in computing Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in computing Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 28, 2009

Date Mailed: February 19, 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.

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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.

SMB

cc:

