

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: 2008-31345

Issue No: 3003; 4011

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

February 17, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on February 17, 2009.

ISSUE

Were the claimant's FAP allotment and SDA benefit calculated correctly?

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 was awarded a Supplemental Security Income (SSI) benefit in November, 2007 in the amount of [REDACTED] per month.

(2) This benefit was increased to [REDACTED] per month in January, 2008.

(3) On January 9, 2008, a Notice of Case Action was sent to claimant informing her that her State Disability Assistance (SDA) would stop due to her increase in income from SSI.

(4) On January 10, 2008, a Notice of Case Action was sent to claimant informing her that her Food Assistance Program (FAP) benefits would be reduced to [REDACTED] due to her increase in income from SSI.

(5) The Department of Human Services (DHS) based these amounts on a State Online Query (SOLQ) request to the Social Security Administration (SSA) which showed an SSI payment of [REDACTED] per month in December, 2007, and a payment of [REDACTED] per month starting in January, 2008 and continuing onwards.

(6) DHS submitted a FAP budget, labeled Department Exhibit 3, dated 8/20/08 which purports to explain how claimant's FAP allotment was computed.

(7) This budget was calculated for a group size of one and based upon a total gross income of [REDACTED] entirely from claimant's unearned income.

(8) On January 22, 2008, claimant requested a hearing on the case actions, alleging that she did not receive an SSI check for January or February, thus rendering DHS's budgets inaccurate.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

For the purposes of budgeting FAP and SDA, the gross amount of current SSA-issued SSI is counted as unearned income. PEM, Item 500, p. 31.

In the current case, the SOLQ shows a payment amount of [REDACTED] for the claimant starting in January 2008. While the claimant has testified that she did not receive her SSI checks in January or February, it is unclear as to whether any of these payments are retroactive payments that arrived in a different month than shown. However, this is irrelevant.

Department's Exhibit 3, according to the DHS witnesses, shows a budget based on the amount of [REDACTED] entirely from unearned income. The SOLQ shows an SSI amount of [REDACTED], rendering [REDACTED] unaccounted for. The Department has not submitted any documents, exhibits, or verifications to show that this extra [REDACTED] amount is from a different source of unearned income. This discrepancy is unexplained, and nothing in the Department's submitted evidence purports to show this as anything but a typo. Therefore, it appears that the Department ran a budget for the claimant using the wrong information, rendering the budget as submitted invalid.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to reduce claimant's FAP allocation and SDA income based on an unearned income amount of [REDACTED] was incorrect.

The Department's negative case action is hereby REVERSED.

Accordingly, the Department is ORDERED to review claimant's FAP and SDA eligibility for the dates in question, including inquiries into SSI benefit amounts and whether payment checks were retroactive and actually arrived during the months in question, or in a different month. The Department shall then issue any and all benefits which are consistent with the correct income eligibility amounts and the Program Eligibility Manual.

/s/


Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 19, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

RJC 

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