

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: 2009-11317

Issue No: 3015, 1015

Case No:

Load No:

Hearing Date:

May 6, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on May 6, 2009. The Claimant appeared and testified. Karen Brenner, FIM, appeared for the Department.

ISSUE

Whether the Department properly reduced the Claimant's FAP and FIP benefits?

FINDINGS OF FACT

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

1. The Claimant was a FAP and FIP recipient.
2. Claimant's FIP benefits were \$492.00/month for a group of five (5).
3. Claimant was sent a semi-annual contact report on 12/17/08.
4. Claimant responded by sending in a check stub from [REDACTED] dated 12/5/08.

5. A new FIP budget was prepared including Claimant's wages on 12/18/08 and Claimant's new FIP amount was determined to be \$207.00. Exhibit 1, pp. 6-7.
6. As a result of the reduced FIP benefits, Claimant's vendor of \$450.00 to [REDACTED] properties ended.
7. On 1/5/09, Claimant reported that her daughter had moved out of the home.
8. A second FIP budget was prepared 2/09 for a group size of three. Claimant's pay stubs from 12/19/08 and 1/2/09 were utilized. Exhibit 2, pp. 1-2.
9. The Department then moved Claimant from FIP to EFIP with a benefit of \$10.00/month.
10. Claimant testified that she was hired at [REDACTED] as a temporary Holiday employee and was able to continue working following the Holiday season.
11. Claimant testified, however, that her pay decreased following the Holiday season.
12. A FAP budget was calculated for a group size of four (4) on 2/2009 resulting in an award of \$489.00 FAP benefits.
13. On December 29, 2008 the Department received the Claimant's hearing request protesting the termination of the FIP benefits and the amount of the FAP benefits.

CONCLUSIONS OF LAW

A. FIP

The Family Independence Program ('FIP') was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services administers the FIP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children ('ADC') program effective October 1, 1996. Department policies are found in the

Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

The eligible group must be in financial need to receive benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. Program, living arrangement, grantee status and eligible group size are variables that affect the payment standard. PEM 515, p. 1. Specifically, Financial need exists when the eligible group passes both the "Deficit Test" and the "Child Support Income Test." To perform the deficit test, subtract the program group's budgetable income from the eligible group's payment standard (PEM 515) for the benefit month. To meet the child support income test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group's payment standard. PEM 518.

In order to determine the amount of budgetable income, the Department should use actual gross income amounts received for past month's benefits, converting to a standard monthly amount, when appropriate. Past income can be used to prospect income for the future unless changes are expected. PEM 505, p. 2. Income from the past 30 days should be used if it appears to accurately reflect what is expected to be received in the benefit month. However, a pay from the past 30 days should be discarded if it is unusual and does not reflect the normal, expected pay amounts. For example, the client worked overtime for one week and it is not expected to recur. PEM 505, pp. 5-6.

The Family Independence Program (FIP) is temporary assistance to families in need. When the family has successfully gained employment and has income that exceeds the FIP eligibility limit, the department offers Extended FIP (EFIP) to help families transition to self-sufficiency. PEM 519, p. 1. Families receive EFIP for up to six months, with a grant of \$10, when loss of FIP eligibility relates to income from employment of a FIP program group member.

Persons in this stage of FIP eligibility are called Extended FIP (EFIP) recipients. EFIP recipients continue to be categorically eligible for other programs such as Medicaid, Child Development and Care (CDC), Direct Support Services (DSS) and energy assistance. Families eligible for Transitional Medicaid (TMA) receive TMA and EFIP simultaneously. Id. EFIP eligibility continues until the end of the six-month EFIP period. PEM 519, p. 4.

In determining Claimant's budgetable income, the Department originally prospected Claimant's income based on a 12/5/08 check stub for \$186.11. (Exhibit 1, p. 7). The 2/09 budget used Claimant's pay of \$515.30 on 12/19/08 and \$354.53 on 1/2/09 to arrive at a gross earned income of \$935.00. The Department properly used the past 30 days worth of pay to determine the earned income amount.

PEM 505 allows unusual pay to be excluded from the budget. Therefore, any paycheck that stands out as unusually high should be excluded from Claimant's income calculation. However, while Claimant's work hours fluctuated, there was not a situation such as one time payment of overtime pay that stands out to have been excluded. The Department properly calculated Claimant's income. In calculating the FIP, the payment standard for a group of three, such as the instant case, is \$492.00. Claimant's income, under either the 'Deficit Test' or the 'Child Support Income Test' is over \$492.00 per month. Claimant, therefore, does not qualify for FIP benefits and this led to the conversion to EFIP and the termination of Claimant's vendor payment. If Claimant's pay has been reduced since the date of her FIP termination, Claimant is entitled to reapply for FIP benefits. Accordingly, the Department's FIP decision, including the decision to convert Claimant to EFIP benefits is AFFIRMED.

B. FAP Benefits

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').

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. Only 80% of earned income is counted in determining FAP benefits. PEM 550. Under 7 CFR 273.9, as amended, \$138.00 is deducted from the gross income of FAP recipients in determining FAP grants. Under 7 CFR 273.9 deductions for excess shelter are also made. PEM 554. Id. There is a standard heat and utility deduction as well as a standard deduction for telephone bills. Id. The standard deductions are a set amount that is applied regardless of the actual expenses incurred by the Claimant.

In the present case, according to the aforementioned policy on budgeting, Claimant's FAP benefits were calculated as follows: Claimant has a net monthly income of \$329.00. This was obtained by subtracting the standard deduction of \$138.00 and the excess shelter amount of \$291.00 from 80% of the gross income of \$758. The amount of food assistance allotment is established by regulations at 7 CFR 273.10. A household of four people with a net monthly income of \$329.00 was entitled to a monthly FAP grant of \$489.00 per month. RFT 260. The FAP awards increased as of 4/1/09. Accordingly, the FAP decision is AFFIRMED.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's earned benefits and terminated the Claimant FIP benefits, converting them to EFIP and properly calculated FAP benefits. Therefore, the Department's FIP and FAP decisions are AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/14/09

Date Mailed: 05/19/09

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.

JV/dj

cc:

