

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: 2009-12014
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 held on March 18, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) effective January 1, 2009?

FINDINGS OF FACT

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

1. The claimant was due for a yearly redetermination in December, 2008 (Hearing Summary).
2. The claimant reported that she had moved and that her rent and utilities had changed. The claimant's rent was now [REDACTED] and included utilities. The claimant was given a standard [REDACTED] telephone expense deduction (Department Exhibit #1).

3. The claimant has total unearned monthly income of [REDACTED]. The claimant's son receives [REDACTED] Supplemental Security Income (SSI) plus a [REDACTED] State supplement monthly. The claimant receives Family Independence Program (FIP) benefits in the amount of [REDACTED] per month (Department Exhibit #1).

4. The department budgeted these amounts into the FAP formula and computed a monthly benefit of [REDACTED] (Department Exhibit #1).

5. The claimant was sent an Eligibility Notice on January 26, 2009, that indicated her monthly FAP benefit would not be [REDACTED] (Department Exhibit #2).

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).

Department policy states:

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount. PEM, Item 500, p. 1.

GARNISHMENT OR OTHER WITHHOLDING

All Programs

Income includes amounts withheld from income which are:

- . voluntary, or
- . to repay a debt, or
- . to meet a legal obligation. PEM, Item 500, p. 2.

Some examples of amounts which may be withheld, but are still considered income are:

- . Income taxes.
- . Health or life insurance premiums.
- . Medicare premiums.
- . Union dues.
- . Loan payments.
- . Garnishments.
- . Court-ordered or voluntary child support payments. PEM, Item 500, p. 2.

FIP/SDA BENEFITS

FIP, SDA, CDC, MA, AMP and TMAP

Exclude as income.

FAP Only

FIP/SDA benefits are considered the unearned income of the FIP/SDA grantee. Count as unearned income the amount of FIP/SDA benefits minus any excludable portion.

The following portions of FIP/SDA benefits are excluded:

- . The amount of **non**-IPV administrative recoupment.
- . The amount of an initial FIP/SDA benefit intended to cover a previous month. PEM, Item 500, p. 16.

SUPPLEMENTAL SECURITY INCOME (SSI)

All Programs

Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount paid by the state and the payment process varies by living arrangement. See PEM 660. For SSI recipients in independent living or household of another, refer to "Current SSA-Issued SSI", "Retroactive SSA-Issued SSI" and "State SSI Payments" below. For SSI recipients in other living arrangements, refer to just "Current SSA-Issued SSI" and "Retroactive SSA-Issued SSI". PEM, Item 500, p. 31.

Current SSA-Issued SSI

FIP, MA and TMAP

Exclude the amount of current SSA-issued SSI as income.

SDA, CDC, AMP and FAP Only

Count the gross amount of current SSA-issued SSI as unearned income. Include SSI withheld to recoup overpayments due to an IPV as defined below.

IPV means there was a finding of fraud or an agreement to repay in lieu of prosecution. Court recouped SSI only if IPV information is volunteered by the SSI recipient or other reliable source. You need NOT initiate any contacts.

Exception: The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.

Note: Exclude SSI income received by an AMP client's spouse.
PEM, Item 500, p. 31.

The claimant testified that she did not agree with the amount of her monthly FAP benefit. This Administrative Law Judge went through the budget items and the claimant did agree that the amounts the department included in her budget were accurate. This Administrative Law Judge explained that the formula is a set formula that the department must follow and that as long as the amounts included in the budget for income and expenses were correct, the benefit amount would be correct.

Departmental policy does require the department to budget the claimant's FIP benefit and her son's SSI as unearned income. PEM 500. The FIP benefit is not a recoupment or an initial amount intended to cover another month. Thus, the full amount of the claimant's FIP benefit must be budgeted, as directed by policy. The claimant's son's SSI benefit must also be fully budgeted as unearned income. Departmental policy indicates that for the FAP program, the gross amount of the benefit is considered unearned income. PEM 500.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly budgeted the claimant's FAP benefit case, resulting in a monthly benefit of [REDACTED].

Accordingly, the department's actions are AFFIRMED. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 23, 2009

Date Mailed: March 23, 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.

SLK [REDACTED]

cc: [REDACTED]