

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: 2009-12016

Issue No: 3002; 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 17, 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 17, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits effective December, 2008?

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's FAP benefit case came due for a redetermination in November, 2008 (Hearing Summary).

2. The claimant provided weekly paycheck stubs from her employment for the dates of October 10, October 17, October 24, October 31 and November 7, 2008 (Department Exhibit #1).

3. The department worker took the four most recent weeks of pay and averaged them out for a monthly average, which came to [REDACTED] (Department Exhibit #3).

4. The claimant submitted a statement from Countrywide Bank, showing her mortgage payment was [REDACTED] per month (Department Exhibit #2).

5. The department worker completed a budget effective December 1, 2008. The budget includes an earned income average of [REDACTED]. The claimant's case was budgeted with a shelter expense of [REDACTED] and the standard heating/cooling/utility expense of [REDACTED]. Her monthly benefit amount was calculated to be [REDACTED] (Department Exhibit #3, 4).

6. The claimant submitted a request for hearing on December 12, 2008.

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.

Wages

All Programs

Wages are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

Exception: Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

PEM, Item 500, p. 15.

PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

DEPARTMENT PHILOSOPHY

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this “best estimate” amount. The client’s understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. PEM, Item 505, p. 1.

DEPARTMENT POLICY

FIP, SDA, CDC and FAP

A group’s financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see PEM 500).

Each source of income is converted to a standard monthly amount, unless a full month’s income will not be received (see Standard Monthly Amount in this item). PEM, Item 505, p. 1.

Past Months

Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. See Standard Monthly Amount in this item.

Exception: Prospective income may be used for past month determinations when:

- . income verification was requested and received, and
- . payments were received by the client after verifications were submitted, and
- . there are no known changes in the income being prospected.
PEM, Item 505, p. 2.

Non-Child Support Income

Using Past Income

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

Note: The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, if:
 - .. the past 30 days is not a good indicator of future income, and
 - .. the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

Note: The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. PEM, Item 505, pp. 5-6.

Standard Monthly Amount

Stable and Fluctuating Income

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

Exception: Do not convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. PEM, Item 505, p. 7.

The claimant disagrees with the amount of the FAP benefit she is receiving. The claimant testified that her paychecks are not always as large as the ones the department used to budget the case because she doesn't always get the hours for working field trips. The claimant also disagreed with the department's use of her gross pay amounts.

The claimant's income does fluctuate, so departmental policy requires the department to prospect her income by computing a monthly average. PEM 505. Departmental policy requires the department to use the gross amounts of a claimant's pay. PEM 500. The department properly took the claimant's latest 30 days of income and averaged it out by adding the gross amounts together [REDACTED] and dividing this amount by [REDACTED]. Departmental policy then requires the department to multiply this number by 4.3, to account for fluctuations in the number of scheduled pays in a month [REDACTED]. PEM 505. The department did properly come up with a monthly average of [REDACTED] which was budgeted for the claimant. The claimant was also given the correct expenses of [REDACTED] for shelter and the standard [REDACTED] for heating/cooling/utilities.

It is noted that the claimant testified that her income may change if she is off because school is not in session (i.e. spring break) and due to the fact that she doesn't always have field trips she can work. Thus, this Administrative Law Judge encouraged her to report to the case worker when she will not be receiving income (such as the week of spring break) and to provide the worker with paycheck stubs if her hours decrease, so the change can be budgeted accordingly.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly compute the claimant's averaged monthly income and did properly include the expenses claimant was allowed. Thus, the department did properly budget the claimant's FAP benefits effective December, 2008.

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 19, 2009

Date Mailed: March 20, 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 

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