

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: 2009-14497
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 24, 2009
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 24, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits claimant was entitled to receive, resulting in decrease of such benefits?

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 receiving FAP benefits for herself, her 14 year-old son and her 17 year-old niece when she started receiving Unemployment Compensation Benefits (UCB).
2. Department verified the amount of UCB claimant was approved to receive as being \$ [REDACTED] per week, paid every two weeks at [REDACTED] (Department's Exhibit #4).

3. On January 14, 2009, department completed a FAP budget for the claimant including her UCB income and FIP grant of [REDACTED] per month that she receives for her niece. This budget also included a shelter allowance of [REDACTED] per month for rent and heating/cooling/utility (including telephone) standard of [REDACTED] per month (Department's Exhibits #1 and 2).

4. FAP budget resulted in a FAP allowance of [REDACTED] per month, a reduction in such benefits for the claimant. Effective date of the negative action was January 14, 2009. Claimant requested a hearing on February 13, 2009.

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).

Departmental 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.

FIP/SDA BENEFITS

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.

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency and comparable agencies in other states, and
- . Supplemental Unemployment Benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. PEM, Item 500, p. 34.

Claimant receives FIP benefits for her niece and UCB for herself, and both of these incomes are countable for FAP as departmental policy quoted above shows. Claimant is objecting to the way department has budgeted her UCB benefits, namely multiplying her bi-weekly benefit amount by 2.15. Departmental policy instructs caseworkers on budgeting various types of income and states:

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.

Department therefore correctly multiplied claimant's UCB bi-weekly income by 2.15.

Claimant testified that she does not have any day care expenses, another deduction from income that could be allowed if she indeed had such an expense. Claimant also does not dispute the amount of her housing expenses budgeted by the department. Claimant states that her expenses including a car payment are not being taken into account. This Administrative Law Judge understands claimant's position that the income she receives is by no means excessive or allowing her to pay all her bills comfortably. However, FAP eligibility is based on federal

government's rules and regulations from which department develops its policy in accordance with such rules and regulations. Department followed the policy in determining claimant's countable income, in the way it budgeted such income, and in the way claimant's shelter expenses were considered. This Administrative Law Judge's authority does not extend to the ability to change departmental policy, only to make sure it was correctly followed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed the amount of FAP benefits claimant was entitled to receive, resulting in decrease in such benefits.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 25, 2009

Date Mailed: March 26, 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.

IR [REDACTED]

cc: [REDACTED]