

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: 2009-15048
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 17, 2009
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on September 17, 2009. The claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine claimant's eligibility for Food Assistance Program (FAP) 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) On February 5, 2009, a review budget for Food Assistance Program benefits was completed.

(2) Income being budgeted was claimant's RSDI in the amount of [REDACTED] a month, FIP income of [REDACTED] for one-half of the month of February 2009, unemployment compensation for

claimant in the amount of [REDACTED] bi-weekly and her daughter's earned income from [REDACTED] in the amount of [REDACTED] (weekly income) for a future month using two paycheck stubs dated January 22, 2009 and January 29, 2009. The Food Assistance Program benefit was determined to be \$131.

(3) On February 5, 2009 a subsequent budget was completed to effect the month of March 2009.

(4) Income being budgeted for a full month of FIP in the amount of [REDACTED], RSDI for claimant in the amount of [REDACTED] and claimant's daughter's prospective income. The unemployment compensation benefits were removed for the month of March 2009. FAP benefits were determined to be \$260.

(5) A third budget was completed to affect March 2009. Income budgeted was [REDACTED] in FIP income, child support for claimant for a child no longer in the home, RSDI for claimant in the amount of [REDACTED] and the prospective earned income for claimant's daughter. The FAP amount was determined to be \$202.

(6) Per claimant, her daughter was off work for a period of ten days due to an injury but reported to the worker that her daughter expected to receive her regular pay.

(7) Claimant reported during the telephone case conference that her daughter was no longer working.

(8) A DHS-3503, Verification Checklist, and a DHS-38, Employment Verification Checklist, were sent to claimant in order to verify the end of employment.

(9) A check of the work number for everyone showed claimant's daughter was still actively employed with [REDACTED] as there was a lag time when information was available.

(10) The last check received by claimant's daughter was February 8, 2009 and the next expected check would be February 22, 2009.

(11) On February 11, 2009, the department caseworker sent claimant notice that her Food Assistance Program benefits for February would be \$131 per month and her Food Assistance Program benefits for March 2009 would be \$202 per month.

(12) On February 19, 2009, claimant filed a request for a hearing to contest the department's reduction of her Food Assistance Program benefits from \$260 to \$202 per month.

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).

Pertinent program policy dictates:

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.

Exceptions

- . Special rules apply when determining MA eligibility of certain former SSI recipients. See PEM, Items 155, 156, 157 and 158. These special rules do NOT apply to post-eligibility patient-pay amount calculations in PEM 546.
- . Exclude Medicare premium refunds as income and as assets. Refunds are made because there is a delay of about 120 days between when Medical Services Administration initiates Medicare buy-in and a person's benefit check actually changes. See PAM 810 for more information
- . 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.
- . See **“Returned Benefits”**. PEM, Item 500, p. 29.

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.

WORKERS' COMPENSATION

All Programs

Workers' compensation payments are available under various federal and state laws to persons with job-related illness or injury and to survivors of a deceased worker. Payments might be made by a government agency, an insurance company or an employer.

Count the gross payment as unearned income.

Exception: Exclude compensation awarded for a particular use which carries legal sanction if used for another purpose. Exclude as income and as an asset. PEM, Item 500, pp. 37-38.

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.

DETERMINING BUDGETABLE INCOME

FIP, SDA, CDC, FAP

Determine budgetable income using countable, available income for the benefit month being processed. PEM, Item 505, p. 2.

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.

Current and Future Months

Prospect income using a “best estimate” of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. PEM, Item 505, p. 2.

To prospect income, you will need to know:

- . the type of income and the frequency it is received (e.g., weekly),
- . the day(s) of the week paid,
- . the date(s) paid, and
- . the gross income amount received or expected to be received on each pay date. PEM, Item 505, p. 2.

BUDGETING INCOME

Use the following guidelines to budget income.

Child Support Income

Past 3 Months

- . Use the average of child support payments received in the past 3 calendar months unless changes are expected. Include the current month if all payments expected for the month have been received. Do **not** include amounts that are unusual and not expected to continue.

Note: The 3 month period used can begin up to 3 months before the interview date or the date the information was requested.

If payment for the past 3 months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these 3 months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past 3 months to project. **Document the discussion with the client and how you decided on the amount to budget.**

One Month Projection

- . If the past 3 months' child support is not a good indicator of future payments, calculate an expected **monthly** amount for the benefit month based on available information and discussion with the client. PEM, Item 505, pp. 3-4.

Change in Amount

When the income amount changes, adjust the amount(s) being budgeted for future pay periods.

For earned income:

- . If the rate of pay changes, but hours are expected to remain the same, use the past hours worked times the new rate of pay to determine the amount to budget for future pay periods.
- . If there is a change in expected hours, but no change in the rate of pay, use the expected hours times the rate of pay to determine the amount to budget per pay period.

If payments in the new amount have been received and they are accurate reflections of the future income, use them in the budget for future months.

For changes in self-employment income, determine the monthly gross income to budget based on discussion with the client of what he/ she expects to receive on average per month. PEM, Item 505, p. 6.

Averaging Income

When income is received in one month but is intended to cover several months (e.g., contractual income, farm income, etc.), establish a monthly average amount if the benefit month is one of the months covered by the income.

Establish the monthly average by dividing the income by the number of months it covers. This amount is considered available in each of the months covered by the income. Do not use overlapping months when averaging.

Exception: For FAP only, see PEM 610, Migrant/Seasonal Farm-workers. PEM, Item 505, p. 6.

Starting Income

For starting income, use the best available information to prospect income for the benefit month. This may be based on expected work hours times the rate of pay. Or if payments from the new source have been received, use them in the budget for future months if they accurately reflect future income.

If the payment is not hourly, use information from the source (e.g., from the employer on the DHS-38), along with information from the client, and/or any checks the client may already have received to determine the prospective amount.

For starting self-employment income, determine the **monthly** gross income to budget based on discussion with the client of what he/she expects to receive on average per month. PEM, Item 505, pp. 6-7.

Stopping Income

For stopping income, budget the final income expected to be received in the benefit month. Use the best available information to determine the amount of the last check expected. Use information from the source and from the client. Remove stopped income from the budget for future months. PEM, Item 505, p. 7.

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.

WHEN TO COMPLETE A BUDGET

FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- . the department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- . a reported change results in the need to convert income to or from a standard monthly amount. PEM, Item 505, p. 8.

Income Decrease

FIP and SDA

Income decreases that result in a benefit increase must affect the month after the month the change is reported or occurred, whichever is earlier, provided the change is reported timely. Do not process a change for a month earlier than the month the change occurred. Supplements are not issued to correct underissuances caused by the group's failure to report timely.

FAP

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases. If verification is required or deemed necessary, you must allow the household 10 days from the date the change is reported or the date you request verification to provide verification. The change must still affect the correct issuance month (i.e., the month after the month in which the 10th day after the change is reported).

If necessary verification is not returned by the due date, put the case into negative action. If verification is returned late, but before case closure, you must act within 10 days from the date the verification is returned. The increase must affect no later than the first allotment issued 10 days after the date the verification was returned. PEM Item 505, pp. 8-10.

Income Increase

FIP, SDA, FAP

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP - 10 calendar days, FIP/SDA - 15 workdays). The effective month is the first full month that begins after the CIMS Negative Action Effective Date. PEM, Item 505, p. 9.

In the instant case, the department caseworker appropriately counted claimant's income in each of the budgets and made a correct determination. Claimant was eligible to receive \$202 in Food Assistance Program benefits once the department caseworker discovered that claimant was receiving RSDI income, FIP income, child support, and the prospective earned income for her daughter because there was no proof in the file that her daughter was no longer working. The department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it established that claimant should be paid \$202 in Food Assistance Program benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in compliance with department policy and established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant was eligible to receive \$202 in Food Assistance Program benefits based upon its prospective income policy.

Accordingly, the department's decision is AFFIRMED.

/s/

ALJ Name
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 19, 2009

Date Mailed: October 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 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.

LYL/vmc

cc:

