

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: 2009-15889
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 2, 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 April 2, 2009. The claimant personally appeared and provided testimony, along with her 15 year-old son, [REDACTED] who also helped to interpret any questions/answers into Romanian the claimant did not understand.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning in February 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 a FAP benefits recipient when the department received information that the claimant was receiving unemployment compensation benefits (UCB), beginning December, 2008 (Department Exhibit A).

2. On January 28, 2009, the claimant was mailed a Verification Checklist (DHS-3503) that indicated “DHS is budgeting employment and UCB income. If you are not employed you may report this to Change Report Center to have your case updated” and provided the telephone number of the Change Report Center (Department Exhibit E).

3. The department budgeted the claimant’s FAP benefits to include the monthly averaged UCB and employment income because there was no information to indicate that the claimant had stopped working. Thus, the claimant had [REDACTED] of earned income and [REDACTED] of unearned income budgeted beginning February, 2009. This reduced her monthly FAP benefit to [REDACTED] (Department Exhibit B).

4. The claimant was mailed an Eligibility Notice (DHS-4400) on December 30, 2008, that indicated her monthly FAP benefit would be [REDACTED] effective February, 2009. At the bottom of this notice, the document indicates that the actions are being taken because “computer checks show your unemployment income started, however, DHS does not have proof your employment ended? You must provide proof by 1/12/09, or this will take effect on 1/13/09.” (Department Exhibit C).

5. The claimant did not provide any information stating her employment had ended and the negative action took effect on January 13, 2009 (Department Exhibit D).

6. The claimant turned in a hearing request on March 5, 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).

Department policy states:

Responsibility to Report Changes

All Programs

This section applies to all groups **except** most FAP groups with earnings.

Clients must report changes in circumstances that potentially affect eligibility or benefit amount. Changes must be reported **within 10 days**:

- . after the client is aware of them, or
- . the start date of employment. PAM, Item 105, p. 7.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month
- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. PAM, Item 105, p. 7.

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.

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.

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.

The department received an Unemployment Compensation Benefit report in December, 2008, that indicated the claimant was now receiving UCB as of the week ending December 6, 2008. Department policy requires the department to complete a budget when the department is made aware of a change in income that will affect eligibility or benefit level. PEM 505. Thus, the department was required to complete a new budget at the time they received the UCB income information.

The claimant had previously provided her income amounts for the pay dates of October 31, November 7, 14 and 21, 2008. Department policy requires the department to prospect future earnings by averaging 30 days of the claimant's earned income. PEM 505. The four weeks of income were averaged and multiplied by 4.3 as required by policy. This showed a budgetable total of earned income of [REDACTED]. The department properly included this amount in her budget.

The claimant provided testimony that she was laid off from her employment and was only receiving UCB beginning in December, 2008. However, the department provided testimony that the claimant had not reported that she had stopped her employment and was just

receiving UCB. The claimant did testify that she only recently called the Change Report Center to report that her work had stopped.

Department policy requires the claimant to notify the department within 10 days of becoming aware of certain changes. PAM 105. Two of these listed changes are starting or stopping employment and starting or stopping a source of unearned income (such as UCB). PAM 105. Thus, the claimant had the responsibility to notify the department that she was no longer working and was only receiving UCB within 10 days of becoming aware of these changes. The claimant's first UCB check was for the week ending December 6, 2008. Thus, she clearly would have known that she wasn't working by this time.

The claimant was even sent at least two documents requesting her to verify her employment status. An Eligibility Notice (DHS-4400) mailed to the claimant on December 30, 2008, indicates that computer checks show the claimant was receiving unemployment, but that DHS did not have any proof the claimant's employment had ended and instructed her to provide proof by January 12, 2009, or the proposed budget would take effect. Further, a Verification Checklist (DHS-3503) was mailed to the claimant on January 28, 2009, which indicated DHS was budgeting employment and UCB income and that if she was not still employed, claimant should call the Change Report Center to update the information.

Because the claimant did not notify the department of the change, the department was not able to remove the budgeted earned income amount and included both the earned income from wages and unearned income from UCB beginning February, 2009. If the claimant had verified her employment status, the department could have removed the budgeted earned income amount. However, as the claimant testified, she did not do so until recently.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly budget the claimant's FAP benefits beginning in February, 2009 according to the information that they had. The claimant failed to report her employment stopped and that she was receiving only UCB.

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: April 21, 2009

Date Mailed: April 22, 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.

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