

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: 2009-16654
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 22, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on April 22, 2009. The Claimant's husband personally appeared and testified. An Arabic translator participated in the hearing. A family independence manager and an eligibility specialist represented the Department.

ISSUE

Did the Department properly compute the Claimant's Food Assistance (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) Claimant is a FAP benefits recipient for a group size of three. The group size does not include her husband because he has been a permanent U.S. resident for less than five years.

- (2) The husband's income, however, is included in calculating Claimant's FAP budget.
- (3) Claimant's monthly FAP benefit allotment had been [REDACTED] in December 2008 when her husband was working. When his job ended and before he began receiving unemployment benefits, Claimant received a monthly FAP allotment of [REDACTED] in January 2009 and February 2009.
- (4) In March 2009, Claimant began receiving unemployment benefits of [REDACTED] each month.
- (5) As a result, the Department worker budgeted [REDACTED] in monthly unemployment benefits in Claimant's April 2009 budget. The April 2009 budget resulted in a monthly FAP allotment of [REDACTED]
- (6) Claimant's husband disagreed with the allotment of [REDACTED] on the grounds that the group should receive more FAP benefits because he is unemployed.
- (7) The Department received Claimant's hearing request on March 9, 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 (formerly known as the Family Independence Agency) 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).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

UNEMPLOYMENT BENEFITS

All Programs except FTW

Unemployment benefits include:

- Unemployment compensation benefits (UB) available through the Michigan Unemployment Insurance Agency (UIA) 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.

FTW Only

Exclude as income.

Exception: Sometimes benefits are reduced because the person has earnings. In such cases, the reduced amount is the gross amount. See “[Returned Benefits](#)” about excluding amounts listed under recoupment on the Unemployment Insurance Agency payment stub. (PEM 500, p. 36)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Unemployment benefits are not excluded income.

The gross amount of unemployment benefits count as unearned income. Under the circumstances, it is found that the Department properly calculated Claimant’s budget for April 2009. The undersigned has reviewed the April 2009 budget and finds it to be correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant's FAP benefits for April 2009.

Accordingly, the Department's action is AFFIRMED.

/s/

Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 04/28/09

Date Mailed: 04/28/09

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 of 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.

TW/dj

cc:

[REDACTED]