

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████
Claimant,

Reg No: 2009-16970
Issue No: 3003
Case No: ██████████
Load No: ██████████
Hearing Date:
April 23, 2009
Clare County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from ██████████ on April 23, 2009.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance benefits ("FAP")?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant is a FAP recipient.
- (2) On March 12, 2009, the Department received the ██████████ annual report and verified Claimant's other sources of income.

(3) On March 12, 2009, the Department completed a FAP budget including Claimant's income from FIP (██████), SSI (██████) and Child Support (██████) which resulted in the Claimant's monthly FAP allotment being reduced from ██████ to ██████. (Exhibits 1-4)

(4) On March 23, 2009, the Department received the Claimant's hearing request protesting the reduction of her FAP benefits.

(5) Claimant does not dispute the income figures used by the Department in the March 12, 2009 FAP budget, but testified that she turns over the child support income for her oldest son to her father who has been caring for him since September 2007.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

For FAP purposes, all earned and unearned income available to the Claimant is countable. 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 and includes Child support, FIP,

RSDI and SSI. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected.

Prospective budgeting is the best estimate of the client's future income. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15.

PEM 505

Child support is the money paid by an absent parent(s) for the living expenses of his/her child(ren). Child support is income to the child for whom the support is paid.

PEM 500

In the instant case, Claimant's oldest son lives with Claimant's father and is not a group member. Policy clearly states that child support is income to the child for whom the support is paid. At first glance, it would seem that the child support that Claimant receives for her oldest son should not be treated as income to Claimant based on the circumstances and the department's policy. However, there is no question that Claimant receives child support for her oldest son. She is under no known obligation to send it to her father and, other than Claimant's testimony, she offered no supporting testimony or documentation that she regularly passes it on to her father. Claimant is certainly free to

report any changes to the Friend of the Court that might affect the child support she receives and/or to submit additional proofs to the department for its future consideration in this regard, but as it stands now the child support she receives for her oldest son is income to her for the reasons articulated above.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in computing Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is **AFFIRMED**.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 28, 2009_____

Date Mailed: April 28, 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.

2009-16970/smb

SMB/db

cc:

