

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: 2009-16979
Issue No: 2014; 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 23, 2009
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, April 23, 2009. The claimant personally appeared and testified on her own behalf with her father [REDACTED] as a witness.

ISSUES

- (1) Did the department properly determine the claimant's eligibility for Food Assistance Program (FAP) and Medical Assistance (MA) based on excess income?
- (2) Is the claimant's request for a hearing within the 90 day time limit from her November 5, 2008 denial notice?

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 previous recipient of MA and FAP benefits.

(2) On November 5, 2008, the claimant reapplied for FAP benefits.

(3) On November 5, 2008, the claimant was informed that her MA benefits would be closing due to excess income.

(4) On November 5, 2008, the department caseworker determined the claimant's eligibility for MA benefits based on your October 2008 submitted income of [REDACTED]. After various deductions, the claimant's net income was [REDACTED] with a total need of [REDACTED] resulting in a monthly excess income of [REDACTED]. As a result, the claimant had a spend-down of [REDACTED], but her children were eligible for the Healthy Kids MA program. (Department Exhibit 14-17)

(5) Her original FAP application was denied because of excess income.

(6) On December 3, 2008, the claimant had a pre-hearing conference where she stated that she was making less money than was budgeted. The claimant also reported that her oldest son was not living with her, but he lives with her parents in the upstairs portion of the house. The claimant withdrew her request for a hearing.

(7) On December 17, 2008, the department caseworker contacted the claimant's employer to check how many hours that the claimant was working. The claimant was once again found not eligible for FAP benefits. (Department Exhibit 10)

(8) On January 13, 2009, the claimant's FAP benefits were opened using the information from her employer. (Department Exhibit 11-12, 18-19)

(9) On January 13, 2009, the department caseworker determined the claimant was eligible for FAP benefits in November 2008 at a prorated amount of [REDACTED] and December 2008 of [REDACTED] per month. (Department Exhibit 6-9)

(10) On March 12, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy manuals provide the following relevant policy statements and instructions for caseworkers:

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.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

DEPARTMENT PHILOSOPHY

The Department's income budgeting policies are designed to support financial self-sufficiency by encouraging families to pursue all available means of income. We offer deductions from earned income so that families are financially advantaged by working. Staff should stress to clients the advantages of obtaining outside income. PEM, Item 518, p. 1.

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.

Countable income is defined in PEM 500. Available income, the amount of income to budget and when to complete a budget are defined in PEM 505. Use this item to determine the program group's budgetable income and financial eligibility. PEM, Item 518, p. 1.

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.

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.

FAP INCOME BUDGETING

DEPARTMENT POLICY

This item applies **only to FAP**

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. PEM, Item 550, p. 1.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. PEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. PEM 500 defines countable income. PEM 505 defines available income and income change processing. This item describes income budgeting policy. PEM, Item 550, p. 1.

In the instant case, the claimant applied for FAP and MA benefits. The claimant's MA case was closed due to her income increase on November 5, 2008 resulting in a MA spend-down of [REDACTED]. During a pre-hearing conference on December 3, 2008, the claimant stated that she was making less money than was budgeted and she reported that her oldest son was not living with her, but with her parents in the upstairs portion of the house.

On December 17, 2008, the department caseworker contacted the claimant's employer to determine how many hours she was working. A determination was made that she was still not eligible for FAP benefits. The department caseworker contact the Policy Office in Lansing regarding the claimant's statement that her son did not live with her. The claimant was required to provide a written letter from her father that the claimant's son did not live with her and the claimant's FAP budget was redone accordingly.

On January 13, 2009, the claimant's FAP case was opened with retroactive benefits for November 2008 of [REDACTED] and December 2008 of [REDACTED] based on the claimant's earned income and child support. On November 5, 2008, the claimant qualified for a MA spend-down because of earned income in the amount of [REDACTED]

Therefore, the department has established that it was acting in compliance with department policy when it determined that the claimant's eligibility for FAP and MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department appropriately determined the claimant's eligibility for FAP and MA benefits.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 1, 2009

Date Mailed: June 1, 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 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

CGF/vmc

cc:

