

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: 2009-1729
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 8, 2008
Wayne 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 Kalamazoo, Michigan on December 8, 2008.

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. The Claimant is a FAP recipient.
2. Claimant received [REDACTED]/month in FAP benefits from October 2007 through June 2008. Claimant's FAP allotment was reduced to [REDACTED] for July 2008 and then her case closed in August 2008. Claimant's FAP case was then transferred from the [REDACTED] office to the

██████████ office as a result of Claimant's July 27, 2008 move. Claimant re-applied for FAP benefits on August 12, 2008.

3. The Department completed a FAP budget on September 5, 2008 based on Claimant's August application which resulted in a FAP allotment of ██████/month based on income of ██████ from SSI (██████) and the State supplement (██████) and expenses including rent (██████), non-heat electric (██████) and telephone (██████). (Exhibit 1)

4. The Shelter Verification indicates that Claimant has a total monthly shelter obligation of ██████0, but is only responsible for ██████ because the rent is reduced because of Section 8, subsidized housing, etc. The Shelter Verification further states that Claimant's rent includes heat, water/sewer, cooking fuel and trash removal. (Exhibit 2)

5. On September 22, 2008, Claimant filed a hearing request protesting the reduction in her FAP benefits.

6. Claimant testified that her stamps were reduced to ██████ in July 2008 and then reduced to ██████ in August 2008, however, she did not receive any stamps on her bridge card for the months of July 2008, August 2008, September 2008 or October 2008. Claimant testified that she received ██████ on her card in November 2008. Claimant testified that she agreed with the income used by the department in running the September 2008 budget. Claimant initially testified that she paid the heat bill at her new residence, but then testified that the landlord pays the heat bill. Claimant questioned why her food stamps went down so drastically in August 2008 when her income and rent has not changed much over the last several years.

7. The Department testified that ██████ in FAP benefits were added to Claimant's card on September 6, 2008 which was the ██████/mo for the months of August and September 2008. The Department further testified that it was not sure what the negative action was that caused the

reduction in benefits from [REDACTED] to [REDACTED] in July 2008, but Claimant came in for a review on June 13, 2008, a budget was run, her benefits were reduced to [REDACTED] and the system shows that she received this amount on her card. Claimant was still living at her prior address at this time.

(Exhibits A-E) The Department testified that Claimant's case closed as a result of the Department not updating her benefits correctly.

8. As requested, Claimant and the Department provided documents to the undersigned with the exception of an EBT card inquiry and the FAP budget which resulted in Claimant's [REDACTED] allotment beginning in October 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. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Unearned income means ALL income that is not earned and includes RSDI and SSI. PEM 500 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). PEM 505

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income for future benefits. In some cases, the department's estimate of the client's future monthly income will not equal the actual income received however, as long as the Department uses the best available information to determine future income, and there is no concealed information or mathematical error, the Department's estimate will not be determined inaccurate. All income is converted to a monthly amount. PEM 505

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500

In the instant case, I find that the Department acted in accordance with policy in completing the September 2008 FAP Budget which resulted in an FAP allotment of [REDACTED]. The Department was able to demonstrate why Claimant's monthly allotment was [REDACTED] month based on the September 2008 budget which utilized all the correct figures for income and expenses based on the testimony and documentary evidence provided in this matter. If Claimant's income and/or expenses change, she should promptly report the same to the Department. The significant change in Claimant's FAP benefits may very well be because she is not paying for heat at her current address as she has in the past, but that is only an educated guess given that I do not have her past budgets to make this determination.

I do not, however, find that the Department met its burden in demonstrating that it followed policy in reducing Claimant's FAP benefits for the month of July 2008. The Department has provided the June 2008 FAP budget showing an [REDACTED] allotment. The budget

shows that Claimant was not given a deduction for her rent and some department notes state that it was because she did not provide proof of shelter. Curiously, Claimant was still given the Heat/Utility (including telephone) standard deduction of [REDACTED] on this budget. The Department also did not provide the budget which resulted in Claimant's [REDACTED] allotment for October 2007 – June 2008. With the above said, I simply do not find that the Department was able to demonstrate why Claimant's benefits were reduced from [REDACTED] to [REDACTED] for the month of July 2008.

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 when it completed the September 2008 FAP budget and computed Claimant's FAP benefits. I do not find that the Department proved that it followed policy for the month of July 2008.

Accordingly, the Department's FAP eligibility determination is MODIFIED. The Department shall supplement the Claimant [REDACTED] ([REDACTED]) for benefits she was otherwise entitled to receive in July 2008. The Department shall also run a EBT inquiry to determine if Claimant's allotment was actually put on her bridge card for the months of July ([REDACTED]), August ([REDACTED]), September ([REDACTED]) and October ([REDACTED]) 2008. The inquiry should include whether Claimant used the bridge cards during these amounts given the Department's position that it appeared that benefits were put on Claimant's card and Claimant's assertion that they were not.

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

Date Signed: February 5, 2009

Date Mailed: February 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.

SMB

cc:

[REDACTED]