

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: 2009-17576

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 5, 2009

Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 May 5, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits for the claimant, resulting in decrease in such 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 was a FAP recipient when the department computed a new FAP budget for her on March 7, 2009. (Department's Exhibits 3 and 4).

(2) Department budgeted as claimant's income her [REDACTED] of [REDACTED] per month plus the [REDACTED] per month. (Department's Exhibit 2).

(3) Department also budgeted as claimant's shelter expense [REDACTED] per month in rent with all heat/utilities included in rent.

(4) On March 7, 2009 department mailed the claimant a notice telling her that her FAP benefits will be [REDACTED] effective April, 2009. Claimant requested a hearing on March 12, 2009 and continued to receive unreduced amount of FAP benefits pending the outcome of this hearing.

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).

Departmental policy states:

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.

SUPPLEMENTAL SECURITY INCOME (SSI)

All Programs

Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount paid by the state and the payment process varies by living arrangement. See PEM 660. For SSI recipients in independent living or household of another, refer to "Current SSA-Issued SSI", "Retroactive SSA-Issued SSI" and "State SSI Payments" below. For SSI recipients in other living arrangements, refer to just "Current SSA-Issued SSI" and "Retroactive SSA-Issued SSI". PEM, Item 500, p. 31.

SDA, CDC, AMP and FAP Only

Count the gross amount of current SSA-issued SSI as unearned income. Include SSI withheld to recoup overpayments due to an IPV as defined below.

IPV means there was a finding of fraud or an agreement to repay in lieu of prosecution. Court recouped SSI only if IPV information is volunteered by the SSI recipient or other reliable source. You need NOT initiate any contacts.

Exception: The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.

Note: Exclude SSI income received by an AMP client's spouse. PEM, Item 500, p. 31.

Claimant receives [REDACTED] and [REDACTED] quarterly payment of [REDACTED] which when divided by the three months it covers results in [REDACTED] per month that the department is budgeting on her FAP case. Claimant states that the [REDACTED] budgeted by the department is correct.

FAP policy also specifies what expenses can be allowed for claimant's household. Claimant is considered a disabled FAP household due to her receipt of [REDACTED]. Departmental policy states:

FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING

DEPARTMENT POLICY

This item applies **only** to FAP.

Budget the following expenses to determine net income for FAP eligibility and benefit levels. PEM, Item 554, p. 1.

- . Groups **with** one or more SDV member:
 - .. dependent care expense up to the maximum in RFT 255; and
 - .. excess shelter, and
 - .. court-ordered child support and arrearages paid to non-household members, and
 - .. medical expenses for the SDV member(s) that exceed \$35 PEM, Item 554, p. 1.

Claimant testified that she has no dependent care expenses, that she does not pay any child support, and that she had not reported any medical expenses to the department that are not paid by other sources. Claimant however does state that her rent is [REDACTED] per month and not [REDACTED], as budgeted by the department. Department's representative responds by pointing out that the claimant rents from her son and his girlfriend, and that a note from the girlfriend from February, 2009 clearly states that the claimant pays [REDACTED] per month in rent and no heat/utility

expenses. Claimant was advised to obtain a new statement from her landlord if her rent is indeed now increased to [REDACTED] per month.

Last issue brought up by the claimant is that she was receiving more FAP benefits last year. Department's representative states that the department was only budgeting around [REDACTED] 3 per month in [REDACTED] for the claimant instead of [REDACTED] plus that she was receiving, and that this was done in error. Such error cannot be continued in order for the claimant to receive benefits she is not entitled to receive.

In conclusion, this Administrative Law Judge does not find any errors in department's budgeting of claimant's income and expenses on which the FAP budget was based on.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed the amount of FAP benefits for the claimant, resulting in decrease of such benefits.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 6, 2009

Date Mailed: May 7, 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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