

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: 2009-17655
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 5, 2009
Ingham 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 she turned in mid certification report indicating she had moved and her rent had changed.

(2) Claimant then provided verification of her rent of [REDACTED] per month to include her heat, electric, water and trash.

(3) Department re-calculated claimant's FAP budget using the new shelter costs. This budget resulted in a decrease in claimant's FAP benefits from [REDACTED] to [REDACTED] per month effective May, 2009. Claimant was previously purchasing her home for [REDACTED] per month and responsible for paying all heat and utilities.

(4) Department notified the claimant of reduction in her FAP amount. Claimant requested a hearing on March 26, 2009, and continues to receive same 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.

Claimant and her husband both receive [REDACTED] according to the hearing testimony.

Departmental policy further states:

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

Claimant does not dispute the [REDACTED] per month as that being the total income of her household.

FAP policy also specifies what expenses can be allowed for claimant's household.

Claimant is considered a disabled FAP household due to 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 does state that her husband was previously ill and that he has been diagnosed with cancer last week, and that he needs additional nutrition due to his condition. While this Administrative Law Judge greatly sympathizes with claimant's situation, FAP regulations do not provide for additional benefits based on a person's nutritional needs. This Administrative Law Judge also does not have any equity powers to grant the claimant relief outside of federal regulations and departmental policy, and this was explained to her.

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.

IR/db

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