

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: 2009-17861
Issue No: 3002, 6021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 14, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on May 14, 2009. The Claimant personally appeared and testified. A JET case manager and a family independence manager represented the Department.

ISSUES

Did the Department properly compute Claimant's Food Assistance (FAP) benefits?
Did the Department improperly delay processing Claimant's request to change her Child Day Care (CDC) provider?

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 is a FAP benefits recipient for a group size of six. As of March 2009, she began receiving \$212 in monthly FAP benefits. (Exhibit 6).
- (2) The Department calculated Claimant's March 2009 FAP budget using income information obtained from the gross income listed on Claimant's check stubs

dated February 20, 2009 (\$737.63), February 27, 2009 (\$909.58), March 6, 2009 (\$498.40) and March 13, 2009 (\$498.40). (Exhibits 7-12).

- (3) Claimant disagreed with the budget calculation on the grounds that the checks in February 2009 included overtime pay. Claimant explained that her gross pay, based on a 40-hour work week is \$498.40.
- (4) The Department asserted that one check stub with overtime would have been excluded. Department contends that, in this case, it used the check stubs even though the stubs included overtime pay because Claimant had submitted a number of check stubs that included overtime pay. As a result, the Department could not exclude all of the check stubs that included overtime.
- (5) Claimant, who works for the [REDACTED], asserted that she tends to get overtime in the winter months due to the weather and has no way of predicting how much, if any, overtime pay she will receive.
- (6) Regarding her CDC case, Claimant contends that on or about November 23, 2008, her brother-in-law submitted a Relative Care Provider Application to become her relative child care provider. Claimant asserted that her then caseworker failed to change her care provider to her brother-in-law before her case was transferred to the [REDACTED] office.
- (7) The Department contends that there was no evidence that Claimant requested a change in providers to her brother-in-law in November 2008 and that the Relative Care Provider form submitted after November 2008 was a DHS 220, which was obsolete as of February 2008. (Exhibit 5)

- (8) The Department received Claimant's hearing requests on March 25, 2009.
(Exhibits 1-3).

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 (formerly known as the Family Independence Agency) 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 Child Development and Care program is established by Title IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) Income eligibility standards. Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled

member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

DEPARTMENT POLICY

All Programs

This item discusses income for:

- Family Independence Program (FIP).
- State Disability Assistance (SDA).
- Refugee Assistance Program (RAP) which if policy differs is divided into:
 - Refugee Assistance Program Cash (RAPC).
 - Refugee Assistance Program Medical (RAPM).
- Child Development and Care (CDC).

Note: Applies to all CDC Income Eligible groups.

- Medicaid (MA) which, if policy differs, is divided into:
 - FIP-related MA.
 - SSI-related MA.
 - Specific MA categories.
- Adult Medical Program (AMP).
- TMA-Plus (TMAP).
- Food Assistance Program (FAP).

The phrase “All Programs” in this item means all the programs listed above.

The group composition and program budgeting items specify whose income to count. The program budgeting items also contain program specific income deductions and disregards.

Income means benefits or payments received by an individual which is measured in money. It includes money an individual owns even if NOT paid directly such as 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.

Exception: The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions.

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

Count all income that is NOT specifically excluded. (PEM 500 p. 1-2)

CLIENT 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.

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 505, p. 1)

Authorization of Care

Authorize care on CIMS once an eligible provider is active on MPS and the begin date of care is verified for the provider:

- Complete an STSM inquiry transaction to **verify** the enrollment status of the provider.
- Complete all steps to **enroll** day care aides and relative care providers.

A DHS-220-A/220-A-SP must be submitted for a day care aide, a DHS-220-R/220-R-SP must be submitted for a relative care provider, and the provider must meet all requirements to be enrolled.

- Verify the begin date of care with a DHS-4025, Child Care Provider Verification. (PEM 702, p. 1-2)

Overtime pay is not excluded income under PEM 500. In accordance with PEM 505, the Department properly used Claimant's actual income to determine her FAP budget for March 2009. Claimant did not dispute the amount of income, only that due to variances in overtime, she may not earn the same amount each month. The undersigned has reviewed the FAP budget for March 2009 budget and finds it to be correct.

Regarding Claimant's request to change child care provider, she did not provide evidence sufficient to establish that she submitted the proper application in November 2008 to make her brother-in-law her child care provider. Claimant did not offer a copy of her the alleged original application. Therefore, it is found that the Department did not improperly delay changing her child care provider. The Department changed Claimant's child care provider at her request, effective March 29, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant's FAP benefits and properly changed her child care provider, effective March 29, 2009.

Accordingly, the Department's action is AFFIRMED.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/19/09

Date Mailed: 05/26/09

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.

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.

TW/dj

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