

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: 2009-18970
Issue No: 3002, 1015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 20, 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 20, 2009. The Claimant personally appeared and testified. A family independence specialist represented the Department.

ISSUE

Did the Department properly compute the Claimant's Food Assistance Program (FAP) and Family Independence Program (FIP) benefits for April 2009?

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 four and a FIP benefits recipient for a group size of three.
- (2) Claimant has earned income from her employment at a [REDACTED].

- (3) The Department used her paychecks dated March 6 and March 20, 2009 to calculate her budget. Because Claimant gets paid every other week, the Department converted her bi-weekly pay of \$323.75 (March 6, 2009) and \$146.15 (March 20, 2009) to a monthly income amount of \$505.14. The Department multiplied her March earnings by 2.15 to convert her bi-weekly earnings to a monthly amount.
- (4) The Department included Claimant's 18-year-old son in her FAP budget for April. Claimant's son, however, moved out of the house in March. Claimant received a notice of case action dated March 23, 2009 stating that her FIP grant would be reduced from \$492 to \$143.
- (5) Claimant believed that her FIP and FAP budgets were improperly calculated when she saw that her son was still included in her FAP case. Claimant also believed that the Department had not properly calculated her income for her FIP budget.
- (6) The Department received Claimant's hearing request on February 19, 2009.
- (7) The Department suspended any negative action 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 (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).

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)

DETERMINING BUDGETABLE INCOME

FIP, SDA, CDC, FAP

Determine budgetable income using countable, available income for the benefit month being processed.

Past Months Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. See [Standard Monthly Amount](#) in this item.

Exception: Prospective income **may** be used for past month determinations when:

- Income verification was requested and received, and
 - Payments were received by the client after verifications were submitted, and
 - There are no known changes in the income being prospected.
- (PEM 505, p.2)

Standard Monthly Amount

A standard monthly amount must be determined for each income source used in the budget.

Stable and Fluctuating Income

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.

Claimant's bi-weekly income fluctuates. Under PEM 505, the Department properly multiplied her bi-weekly income by 2.15, which resulted in a monthly income of \$505.

Consequently, it is found that the Department properly calculated Claimant's FIP budget effective April 2009.

Because Claimant's son moved out of her house, his unearned income should not be included in Claimant's FAP budget. Therefore, it is found that the Department did not properly calculate her FAP budget. The undersigned has reviewed the FAP and FIP budgets and finds the FAP budget to be incorrect and that FIP budget to be correct.

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 FIP benefits and improperly computed Claimant's FAP benefits.

Accordingly, the Department's action is **PARTIALLY REVERSED**. The Department is **ORDERED** to (a) remove Claimant's son from her FAP case and recalculate Claimant's FAP budget and (b) reimburse her any FAP benefits that she was eligible to receive during the time that her son was improperly included in her FAP budget.

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

Date Signed: 05/27/09

Date Mailed: 05/28/09

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

cc:

