

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: 2009-19358
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED] 1
Hearing Date:
June 16, 2009
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on June 16, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly propose to reduce claimant's monthly Food Assistance Program (FAP) benefit level to [REDACTED] effective April 1, 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 the grantee-member of a five person FAP group residing in [REDACTED]
[REDACTED].

(2) Claimant's husband got laid-off from his machine operator's job effective February 3, 2009; the employer issued his final paycheck on February 11, 2009, according to the Verification of Employment (DHS-38) claimant timely submitted.

(3) Before this lay-off, claimant's household was eligible for [REDACTED] monthly FAP benefit; however, when claimant's husband's [REDACTED] began, the department updated their FAP budget (Department Exhibit #1, pgs 2-7).

(4) When the department combined claimant's income with her husband's [REDACTED] and applied all the disregards, deductions and allowable budgeting expenses, they determined the FAP group's monthly benefit level would be reduced to [REDACTED] (Department Exhibit #1, pgs. 2-5).

(5) On March 25, 2009, claimant filed a timely hearing request which stopped the department from implementing the reduction pending claimant's appeal.

(6) Claimant's hearing was held on June 16, 2009.

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).

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.

Some examples of amounts which may be withheld, but are still considered income are:

- . Income taxes.
- . Health or life insurance premiums.
- . Medicare premiums.
- . Union dues.
- . Loan payments.
- . Garnishments.
- . Court-ordered or voluntary child support payments. PEM, Item 500, p. 2.

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency and comparable agencies in other states, and
- . Supplemental Unemployment Benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. PEM, Item 500, p. 34.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

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Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See PAM 130 and PEM 702. PAM, Item 105, p. 8.

Income reporting requirements are limited to the following:

- . Earned income
 - .. Starting or stopping employment
 - .. Changing employers
 - .. Change in rate of pay
 - .. Change in work hours of more than 5 hours per week that is expected to continue for more than one month

- . Unearned income
 - .. Starting or stopping a source of unearned income
 - .. Change in gross monthly income of more than \$50 since the last reported change. PAM, Item 105, p. 7.

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 **no** Senior/Disabled/Veteran (SDV) member:
 - .. dependent care expense up to the maximum in RFT 255, and
 - .. excess shelter up to the maximum in RFT 255, and
 - .. court ordered child support and arrearages paid to non-household members. PEM, Item 554, p. 1.

BUDGETING EXPENSES

Budget Month

Use expenses from the same calendar month as the month for which you are determining benefits. PEM Item 554, p. 2.

SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed. PEM, Item 554, p. 9.

Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense. PEM, Item 554, p. 9.

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees, etc.** (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. PEM, Item 554, p. 11.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements. Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Example: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification to an eligible FAP group as a change. Issue a supplement for lost benefits **only** if:

- . the expense could **not** be verified within 30 days of the application, and
- . the local office was at fault. PEM, Item 554, p. 2.

The department followed the above-referenced policy to the letter in this case. When claimant's husband began receiving [REDACTED], the department had no alternative but to consider that source of unearned income in light of the FAP budgeting rules. Furthermore, this Administrative

Law Judge has reviewed the budget and she finds all calculations were properly made.

Consequently, the department' budgeting action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly proposed to reduce claimant's monthly FAP benefit level to [REDACTED] effective April 1, 2009.

Accordingly, the department's action is AFFIRMED.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 23, 2009

Date Mailed: June 23, 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.

MBM/db

cc:

[REDACTED]