

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: 2009-19392
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 26, 2009
Macomb 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 26, 2009. The Claimant personally appeared and testified. A family independence specialist represented the Department.

ISSUE

Did the Department properly determine Claimant ineligible for Food Assistance Program (FAP) 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 filed an application for FAP benefits for a group size of seven on December 16, 2008.

- (2) The Department worker calculated budgets for December 2008 and January 2009, using the group's actual income.
- (3) On March 13, 2009, the Department sent Claimant eligibility notices, DHS 4400 forms, stating that she was ineligible for FAP benefits. (Exhibits 2 and 3).
- (4) Claimant is employed at [REDACTED] auto dealership. Claimant received earned income of \$2,223 in December 2008 and \$2,230 in January 2009.
- (5) Her husband, a member of the group, worked at [REDACTED] before being laid off on or about December 12, 2008. Her husband received \$2,928 in earned income in December 2008. The husband then began receiving \$724 in unemployment benefits in January 2009. (Exhibit 14).
- (6) Claimant also receives child support income. (Exhibit 6). Her child support income was budgeted at \$162 for the January 2009 budget and \$178 for the December 2008 budget.
- (7) Claimant disagreed with the Department finding her ineligible for benefits due to the size of their family and the fact that her husband stopped receiving unemployment compensation about three weeks before this hearing. Claimant was informed that she could submit another application for FAP if her group income changed.
- (8) The Department received Claimant's hearing request on March 16, 2009. (Exhibit 1).

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)

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)

CHILD SUPPORT All Programs

Definitions Child support is the money paid by an absent parent(s) for the living expenses of his/her child(ren). Medical, dental, child care and educational expenses may also be covered. Court-ordered child support may be either certified or direct.

Child support is income to the child for whom the support is paid. (PEM 500 p. 9)

UNEMPLOYMENT BENEFITS

All Programs except FTW

Unemployment benefits include:

- Unemployment compensation benefits (UB) available through the Michigan Unemployment Insurance Agency (UIA) 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.

FTW Only

Exclude as income.

Exception: Sometimes benefits are reduced because the person has earnings. In such cases, the reduced amount is the gross amount. See “Returned Benefits” about excluding amounts listed under recoupment on the Unemployment Insurance Agency payment stub. (PEM 500, p. 36)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits (PEM 500, pg.1). Claimant and her husband received earned income in December 2008 and her husband received unemployment compensation starting in January 2009. In addition, Claimant receives child support income. Under PEM 500, neither unemployment compensation nor child support is excluded income. Therefore, the Department properly included the earned income, unemployment income and child support income in the Claimant’s FAP budgets, resulting in a determination that Claimant is not eligible for FAP benefits. The undersigned has reviewed the FAP budgets for December 2008 and January 2009 and finds them 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 determined Claimant ineligible for FAP benefits for December 2008 and January 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: 05/28/09

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 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.

TW/dj

cc:

