

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: 2009-20421
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 10, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 August 10, 2009. Claimant appeared and testified.

ISSUE

Did the Department properly calculate Food Assistance Program benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as a material fact:

1. On September 20, 2008 a re-determination was conducted. The Department discovered the Claimant's previous FAP budget had given the Claimant both the standard utility deduction and an actual utility deduction. When a budget was corrected it resulted in a reduction in FAP benefits.
2. On September 20, 2008 a notice of new FAP amount was sent to Claimant.

3. On October 3, 2008 the Claimant submitted a request for 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) 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).

In the present case Claimant disputes the amount of her FAP benefit. The Claimant disagreed with the reduction of her benefits. The Department explained the Claimant's case had been in error prior to the review. The FAP budget should only have either a standard deduction for utilities or use actual and not both. The Department had previously over paid the Claimant in FAP benefits based upon this error and once this was corrected it did result in a drop in FAP benefits.

Relevant Policy PEM 554:

MANDATORY INDIVIDUAL STANDARDS

FAP groups not eligible for the Heat and Utility Standard who have other utility expenses or contribute to the cost of other utility expenses are eligible for the individual utility standards. Use the individual standard for each utility the FAP group has responsibility to pay. Do not prorate the utility standard even if the expense is shared.

Non-Heat Electric Standard

A FAP group which has no heating/cooling expense but has a responsibility to pay for non-heat electricity separate from rent/mortgage or condo/maintenance

fees must use the Non-Heat Electric Standard. The standard covers **only** non-heat electric.

Verification

Verify the non-heat electric expense at application and when a change is reported.

Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider for electric expenses.
- Collateral contact with the electric provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.
- DHS-3688, Shelter Verification.
- Current lease.

Water and/or Sewer Standard

A FAP group which has no heating/cooling expense but has a responsibility to pay for water and/or sewer separate from rent/mortgage or condo fees must use the Water and/or Sewer Standard. The standard covers **only** water and/or sewer expenses.

Verification

Do **not** verify the water or sewer expense, unless questionable. See [PAM 130](#) regarding verification of questionable data.

Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider for water or sewer expenses.
- Collateral contact with the water or sewer provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.

Telephone Standard

A FAP group which has no heating/cooling expense but has a responsibility to pay at least the basic fee required to maintain a telephone, must use the Telephone Standard. This includes cell phones. The standard covers **only** the telephone expense.

Verification

Do not verify the telephone expense, unless questionable. See [PAM 130](#) regarding verification of questionable data.

Verification Sources

Acceptable verification sources include, but are **not** limited to:

- Current bills or a written statement from the telephone provider.
- Collateral contact with the telephone provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.

Cooking Fuel Standard

A FAP group which has no heating/cooling expense but has a responsibility to pay for cooking fuel separate from rent/mortgage or condo fees must use the Cooking Fuel Standard. The standard covers **only** cooking fuel expenses.

Verification

Do not verify the cooking fuel expense, unless questionable. See [PAM 130](#) regarding verification of questionable data.

Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider for cooking fuel expenses.
- Collateral contact with the cooking fuel provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.

Trash Removal Standard

A FAP group which has no heating/cooling expense but has a responsibility to pay for trash or garbage removal separate from rent/mortgage or condo fees must use the Trash Removal Standard. The standard covers **only** trash removal.

Verification

Do not verify the trash or garbage removal expense, unless questionable. See [PAM 130](#) regarding verification of questionable data.

Verification Sources

If the trash or garbage removal expense is questionable, acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider for trash removal.
- Collateral contact with the trash removal provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.

ACTUAL UTILITIES

Actual utility expenses will be used for the following expenses only:

Utility installation charges (not deposits).
Water well installation and maintenance.
Septic installation and maintenance.

Do **not** allow an actual utility expense for reconnection fees after service has been turned off for the same people at the same address.

Verification

Verify the actual expense.

Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider.
- Collateral contact with the provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.

The Department correctly determined the Claimant's FAP budget should only have the utility standard deduction and properly determined the amount of FAP benefits based upon a newly completed budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department correctly budgeted and reduced FAP benefits and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

/s/
Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 8/24/09

Date Mailed: 8/26/09

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 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.

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