

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: 2009-20722
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 1, 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 June 1, 2009. The Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUE

Did the Department properly determine Claimant ineligible for Food Assistance Program (FAP) benefits, effective 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 was a FAP benefits recipient for a group size of one. He last received a monthly allotment of \$86.
- (2) Claimant works full-time at a mail production facility.

- (3) Claimant also pays child support for five children. His monthly child support expense is \$743. (Exhibit 4).
- (4) The Department worker calculated budgets for April 2009 using paycheck stubs that the Claimant submitted. The Claimant's monthly income is \$1,890. The Department used his monthly income of \$1,890 and a child support expense of \$618 to calculate his April 2009 budget. The result was that the Department determined that Claimant's income exceed the limit for a group size of one.
- (5) Claimant provided documentary evidence, a Uniform Child Support Order Modification, dated [REDACTED]. The Order established that his monthly child support expense is \$743. (Exhibit 4).
- (6) Claimant disagreed with the Department on the grounds that he has a monthly shelter expense, a monthly child support obligation in the amount of \$743, rather than \$618, and that he also needs money for personal needs and transportation to and from work.
- (7) The Department received Claimant's hearing request on April 14, 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)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits (PEM 500, pg.1). Claimant’s earned income is not excludable. The Department included a child support expense of \$618 in his April 2008 budget. In addition, the Department properly included Claimant’s earned income. However, it is found that the

Department incorrectly recorded Claimant's child support expense in his April 2009 FAP budget. Claimant offered evidence that his monthly child support expense is \$743 rather than the \$618 that the Department counted. Therefore, it is found that the Department incorrectly computed Claimant's April 2009 FAP budget. The undersigned has reviewed the FAP budget for April 2009 and finds it does not accurately reflect Claimant's child support expense.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly determined Claimant ineligible for FAP benefits for April 2009.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to recalculate Claimant's April 2009 budget using his proper child support expense of \$743. If Claimant is found eligible for FAP benefits, the Department is also ORDERED to reimburse him for any FAP benefits he would have received had he not been found ineligible due to the Department using an incorrect figure for his monthly child support expense.

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

Date Signed: 06/10/09

Date Mailed: 06/15/09

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.

2009-20722/TW

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:

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