

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: 2009-21213

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 23, 2009

Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 telephone hearing was held on June 23, 2009. The claimant personally appeared and testified, along with her husband, [REDACTED]

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning May, 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. The claimant was receiving FAP benefits when her case was re-budgeted due to her husband's receipt of Unemployment Compensation Benefits (UCB).
2. The claimant's husband began receiving UCB in the amount of \$686.00 biweekly on March 1, 2009 (Department Exhibit #10).

3. The claimant works for [REDACTED]. The claimant provided four weeks of pay stubs, which resulted in a total of \$885.81 for budgetable income (Department Exhibit #8 – 9).

4. The department included these amounts in the claimant’s FAP budget with the existing expenses (mortgage, insurance, heating/cooling/utility standard). This resulted in a new FAP benefit amount of \$321.00 (Department Exhibit #6 – 7).

5. The claimant was mailed an Eligibility Notice on April 21, 2009, informing her of the new benefit amount (Department Exhibit #1).

6. The claimant submitted a hearing request on April 28, 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).

Department policy states:

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.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

GARNISHMENT OR OTHER WITHHOLDING

All Programs

Income includes amounts withheld from income which are:

- . voluntary, or
- . to repay a debt, or
- . to meet a legal obligation. PEM, Item 500, p. 2.

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.

Wages

All Programs

Wages are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

Exception: Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

PEM, Item 500, p. 15.

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.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. PEM, Item 550, p. 1.

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.

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.

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure,

and it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are **not** allowed. PEM, Item 554, p. 9.

Property Taxes, Assessments and Insurance

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do **not** allow insurance costs for the contents of the structure, e.g. furniture, clothing and personal belongings.

Deduct the entire insurance charge for structure and contents when the amount for the structure cannot be determined separately.

Renter's insurance is **not** allowed. PEM, Item 554, p. 10.

Verification

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified.

Verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs. PEM, Item 554, p. 10.

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.

The claimant and her husband testified that they were trying to keep from losing their house to foreclosure and couldn't meet all of their costs on the amount of FAP benefits that they

are receiving. This Administrative Law Judge did go through the income and expense items in the FAP budget and the claimant testified that the amount of income and expenses the department used in computing the FAP benefit amount is correct.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM, Item 500. The FAP program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income is allowed for each household, in this case \$163.00. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed. PEM, Items 500 and 554; PRM, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Program Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$321.00.

It is noted that the claimant's husband testified that his mortgage expense and insurance has gone up and the claimant has stopped working for the school for the duration of the summer. The claimant and her husband indicated that they would provide the department with the verification of these issues, so the department can budget in the new amounts of income and expenses.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly budget the claimant's Food Assistance Program (FAP) benefits beginning May, 2009.

Accordingly, the department's action is UPHeld. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 24, 2009

Date Mailed: June 25, 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.

SLK 

cc:

