

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.: 2009-214

Issue No.: 3003

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

February 26, 2009

Macomb County DHS [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 in Sterling Heights, Michigan on February 26, 2009. The Claimant appeared and testified, along with [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("FAP") benefits effective September 2008?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. On September 8, 2008, the Department determined the Claimant was eligible for a [REDACTED] FAP allotment. (Exhibit 1)

3. On this same date, the Department sent the Claimant an eligibilty notice regarding the new FAP benefit for the period from September 2008 through March 2009.
(Exhibit 2)
4. The Claimant received a [REDACTED] FAP supplement for September of 2008 because the Claimant initially received [REDACTED] as opposed to the [REDACTED] benefit amount.
(Exhibit 3)
5. On September 15, 2008, the Department received the Claimant's written hearing request protesting the calculation of the FAP allotment.
6. The Claimant receives [REDACTED]/month in [REDACTED] income and [REDACTED] supplement.
7. The Claimant receives [REDACTED] month in child support.
8. The Claimant testified to paying [REDACTED]/month in rent and was responsible for utilities.
9. Effective March 1, 2009, the Claimant's rent was reduced to [REDACTED]/month.
(Exhibit 4)
10. The Claimant remains responsible for monthly utilities.
11. The Claimant has monthly medical expenses which were not used in the FAP calculation.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the

FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

All countable earned and unearned income available to the client must be considered in determining the Claimant’s eligibility for program benefits. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500 A group’s benefits for a month are based, in part, on a prospective income determination. PEM 505, p. 1 A “best estimate” of income expected to be received by the group during a specific month is determined and used in the budget computation. *Id.* Only countable income is included in the determination and is converted to a standard monthly amount unless a full month’s income will not be received. PEM 505, pp. 1, 7 Child support is income to the child for who the support is paid. PEM 500, p. 9 Court-ordered child support may be either certified or direct. PEM 500, p. 9 Certified support payments are made to DHS through the Friend of the Court while direct support means court-ordered child support payments a person receives directly from the absent parent or the Friend of the Court. PEM 500, p. 9

In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM 554, p. 11 Non-reimbursable medical expenses, to include payments towards a deductible is allowable expenses for FAP purposes. PEM 554 p. 6

In the instant case, the Department counted the Claimant’s child support income as an expense. In addition, the Claimant’s medical expenses were not entered into the FAP budget and the Claimant’s rent expense was entered as [REDACTED] as opposed to [REDACTED]. For these reasons, the FAP budget is incorrect. Accordingly, the Department’s determination must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to act in accordance with Department policy when it calculated the Claimant's FAP allotment effective September 2008.

Accordingly, it is ORDERED:

1. The Department's FAP eligibility determination is REVERSED.
2. The Department shall recalculate the Claimant's FAP budget effective September 2008 in accordance with this decision and department policy.
3. The Department shall supplement the Claimant for any FAP benefits (if any) she was otherwise eligible to received in accordance with department policy.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 19, 2009

Date Mailed: March 19, 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.

CMM/jlg

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