

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: 2009-25357
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 16, 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 July 16, 2009. The Claimant and his wife personally appeared and testified. An eligibility specialist and a family independence manager represented the Department.

ISSUE

Did the Department properly determine Claimant not eligible for Food Assistance Program (FAP) benefits due to excess income?

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 applied for FAP benefits on April 22, 2009 for a group size of four that included himself, his wife and two children. (Exhibit pg. 1-15)

- (2) Claimant and the two children receive RSDI income. Claimant receives monthly RSDI of \$1,714; his son and daughter each receive \$428 monthly.
- (3) Claimant's wife works at [REDACTED]. The application indicated that she worked 15 hours per week at \$10 an hour.
- (4) At the hearing, Claimant's wife explained that she receives only \$9 or \$10 an hour depending on the job she works and does not work 15 hours per week.
- (5) The wife's paycheck stubs for June 5 and 19, 2009 indicate that she is paid \$10 an hour. (Exhibits 31 and 32).
- (6) The Department believed that the wife was earning \$11 per hour because her check stub dated [REDACTED] showed that she was paid \$11 an hour for four hours of work. As a result the Department worker concluded that the wife was paid \$11 an hour and worked 15 hours per week. Claimant's wife is paid bi-weekly; therefore, the Department multiplied her income by 2.15 to determine a monthly budgetable income.
- (7) Claimant and his wife, however, did not report to the Department that she was not receiving 15 hours per week and that she was not paid at a rate of \$11 an hour until after Claimant received the Eligibility Notice dated May 4, 2009.
- (8) The Department received Claimant's hearing request on June 1, 2009. (Exhibit 30).

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)

CLIENT DEPARTMENT PHILOSOPHY

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process.

DEPARTMENT POLICY FIP, SDA, CDC and FAP

A group's financial eligibility and monthly benefit amount are determined using:

- actual income (income that was already received), and/or
- prospected income amounts (not received but expected).

Only **countable** income is included in the determination (see [PEM 500](#)).

Each source of income is converted to a **standard monthly amount**, unless a full month's income will not be received (see [Standard Monthly Amount](#) in this item). (PEM 505, pg. 1)

Standard Monthly Amount

A standard monthly amount must be determined for each income source used in the budget.

Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- Multiply amounts received every two weeks by 2.15.
- Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month. (PEM 505, 7-8).

Under PEM 505, “each source of income is converted to a **standard monthly amount**, unless a full month's income will not be received.” In this case, the Claimant's application stated that his wife worked 15 hours weekly at a pay rate of \$10. The Department concluded that the wife was paid at a rate of \$11 based on one paycheck stub that in one place stated the pay rate as \$11 and in another place, the top of the stub, stated that her pay rate was \$10. (Exhibit 25). Although the Claimant had the responsibility to report that his wife was working less than 15 per week prior to the negative action, the Department did not seek to verify the wife's pay rate after discovering what appeared to be a conflict regarding her pay rate. Claimant, however, had never reported that her pay rate was \$11. The Department worker concluded that the wife was paid at this the \$11 rate without verifying it. Under these circumstances, it is found that the Claimant's June 2009 budget was incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department improperly calculated Claimant's June 2009 budget.

Accordingly, the Department's action is REVERSED. The Department is ORDERED to verify the wife's hourly pay rate and the hours worked and recalculate his budget as of June 2009. The Department is ORDERED to reimburse Claimant for benefits, if any, that he is eligible to receive after his wife's correct monthly income as of June 2009 is included in the new budget.

/s/

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

Date Signed: 08/24/09

Date Mailed: 08/24/09

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:

A large black rectangular redaction box covering several lines of text in the distribution list.