

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: 2009-25558  
Issue No: 2013, 3015  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 22, 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 22, 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) and Medical Assistance (MA) 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 was a recipient of FAP and MA benefits for a group size of two that included himself and his daughter. Prior to his semi annual review, Claimant has been receiving a monthly FAP allotment of \$367 and MA benefits with no spend-down for himself and his daughter.

- (2) Claimant submitted a semi annual contact report on May 1, 2009. (Exhibit 1). The Department also requested verification of employment and paycheck stubs due by May 24, 2009. (See Exhibit 2, Verification Checklist).
- (3) Claimant submitted a verification of employment, DHS-38 form, on May 21, 2009. Claimant works at [REDACTED]. The paycheck records Claimant provided state that his gross pay is \$1,038 bi-weekly. (See Exhibits 4 and 5).
- (4) Claimant's daughter receives \$113 in monthly RSDI income.
- (5) Consequently, the Department converted Claimant's biweekly income to a monthly amount of \$2,232 and counted his daughter's monthly RSDI income of \$113 when calculating Claimant's June 2009 budgets for FAP and MA.
- (6) Claimant's June 2009 budget calculations determined that Claimant was not eligible for FAP nor MA benefits for June 2009 because the household income exceeds the limit for these programs.
- (7) Claimant disagreed with the Department's calculation of his eligibility for FAP and MA on the grounds that the Department counted his gross biweekly pay rather than his net pay.
- (8) The Department received Claimant's hearing request on June 5, 200. (Exhibit 9).

#### CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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)

### **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.

**Exception:** Do **not** convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months.

**Example 1:** On 10/18 the client reports being laid off from her job. She will receive one pay check in November. Stop budgeting the standard monthly amount for November. Process a change to budget only one week of wages for November. Process a change for December to remove the income entirely, unless the client reports another change.

**Example 2:** You are processing an application and are determining eligibility for August benefits. The client started a new job at the end of July and will be paid every two weeks. Her first check will be received on 8/7, but will be for only one week's wages. A full two-week pay check is expected on 8/21. Complete the August budget using the expected pays and do **not** convert the income to a standard monthly amount. (LOA2 will convert or not convert automatically if questions are answered correctly). Process a change for September to project a full month's pay and to convert to a standard monthly amount. (PEM 505, pg. 7-8)

Under PEM 500, all income that is "NOT specifically excluded" must be considered in calculating FAP benefits (PEM 500, pg.1). Claimant's gross earned income from his employment is \$1,038 monthly. The Department properly counted Claimant's \$1,038 monthly, converting it to a monthly amount, when calculating his eligibility for FAP and MA benefits. In addition, the Department also counted his daughter's monthly RSDI income of \$113. Claimant did not dispute the amount of either his gross biweekly income or his daughter's monthly RSDI income. It is found that the Department used correct income figures when calculating the Claimant's FAP and MA budgets. The undersigned reviewed the Claimants' FAP and MA budgets for June 2009 and finds them to be correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined Claimant ineligible for FAP and MA benefits due to excess income.

Accordingly, the Department's action is AFFIRMED.

/s/  
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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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

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