

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: 2009-25728

Issue No: 3002

Case No:

Load No:

Hearing Date:

July 21, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on July 21, 2009.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient.
- (2) Claimant stopped receiving unemployment benefits on October 15, 2008.

As a result, the Department completed a new November 2008 FAP budget. Claimant had

no earned or unearned income and shelter expenses of [REDACTED] for rent and [REDACTED] for heating/cooling/utility(incl telephone). (Exhibits 10-12)

(3) On May 13, 2009, the Department received an [REDACTED] notice that Claimant began receiving [REDACTED]. (Exhibits 1,4,6,7,8)

(4) On May 20, 2009, the Department completed a new June 2009 FAP budget to include Claimant's [REDACTED] monthly benefits of [REDACTED] and to include monthly [REDACTED] of [REDACTED] (averaged for the months of 12/08, 1/09 and 2/09) which resulted in a monthly FAP allotment of [REDACTED]. (Exhibits 2,3,13,14)

(5) On May 20, 2009, the Department mailed Claimant an Eligibility Notice which explained the reduction in her FAP benefits. (Exhibit 5)

(6) On May 28, 2009, the Department received the Claimant's hearing request protesting the amount of her FAP allotment. (Exhibit 9)

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. Departmental policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. 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 and includes [REDACTED] t and [REDACTED]. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected.

Prospective budgeting is the best estimate of the client's future income. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15.

PEM 505

In the instant case, I find that the Department correctly budgeted Claimant's [REDACTED] income, but I question the information the Department used for [REDACTED] [REDACTED]. To that end, the Department used [REDACTED] pay dates of 4/22/09 and 5/6/09 for the new June 2009 FAP budget, but used [REDACTED] pay dates of 12/08, 1/09 and 2/09. The Department provided the undersigned with a [REDACTED] on 7/27/09 which runs through 7/08/09 so it is only 2-3 weeks behind. While always dangerous to assume, I assume in this matter that more recent [REDACTED] information was available to the Department than it used when it completed the new June 2009 FAP budget. Claimant testified that she received far less than [REDACTED] [REDACTED]/mo. in [REDACTED]. She provided information after the hearing which appears to be from her [REDACTED] [REDACTED] and maybe her bank account. The undersigned is unsure if Claimant also sent this information to the Department.

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.

SMB/db

cc:

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