

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2009-25996

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 ██████████ 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) On May 5, 2009, the Department completed a FAP budget based on income and expenses Claimant provided at the time of her semi-annual contact which resulted in a monthly FAP allotment of ██████████. (Exhibit 3-6)

(3) On May 5, 2009, the Department mailed Claimant an Eligibility Notice which explained her monthly FAP allotment. (Exhibit 2)

(4) On May 26, 2009, the Department received the Claimant's hearing request protesting the amount of her FAP allotment.

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 FIP, RSDI, SSI and UB. 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

Expenses should be allowed if the service is provided by someone outside the FAP group, and someone in the FAP group has the responsibility to pay for the service in money, and verification is provided, if required. The Department must verify the responsibility to pay and the amount of certain expenses and cannot budget expenses that require verification until the verification is provided. It must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. PEM 554, p. 1-2. The Department should allow an unreimbursed dependent care expense for a child or an incapacitated adult who is a member of the FAP group, when such care is necessary to enable a member of the FAP group to work. PEM 554, p.6. 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. Property taxes, state and local assessments and insurance on the structure are allowable expenses. Additional expenses for optional charges, i.e., carport, pets, etc. are not allowed. PEM 554, p. 9-10.

In the instant case, Claimant agreed that the Department used the correct income in completing the May 5, 2009 FAP Budget. She did not understand why dependent care costs and certain housing costs such as her home alarm and home warranty were not included as expenses. Simply stated, Claimant did not have any dependents in her group at the time of the May 5, 2009 FAP Budget. In addition, Department policy does not

allow inclusion of the housing costs requested by Claimant. Administrative Law Judges, have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals.

With the above said, based on the testimony and documentation offered at hearing, I find that the Department established that it acted in accordance with policy in computing Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in computing Claimant's FAP allotment.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

/s/
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 23, 2009

Date Mailed: July 23, 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.

SMB/db

cc:

