

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: 2009-27739

Issue No: 3002

Case No:

[REDACTED]

Load No:

[REDACTED]

Hearing Date:

August 4, 2009

Oakland 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 August 4, 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 January 28, 2009, the Department completed a FAP budget based on Claimant's monthly unearned income from [REDACTED] ([REDACTED]) and [REDACTED] and her monthly

medical () and shelter expenses () which resulted in a FAP allotment of /month. (Exhibit 1)

(3) On January 28, 2009, the Department mailed Claimant an Eligibility Notice which explained Claimant's monthly FAP allotment of /month. (Exhibit 5)

(4) On February 25, 2009, the Department completed a new FAP budget to reflect an increase in Claimant's monthly unearned income from () and () which resulted in a monthly FAP allotment of /month. (Exhibits 2, 3, 6)

(5) On February 25, 2009, the Department mailed Claimant a Notice of Case Action and an Eligibility Notice which explained the reduction in Claimant's monthly FAP allotment to /month. (Exhibits 4, 8)

(6) On March 11, 2009, the Department received 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

The Department should budget the following expenses to determine net income for FAP eligibility and benefit levels for groups with one or more SDV member(s) – dependent care expense up to the maximum, excess shelter, court ordered child support and arrearages paid to non-household members and medical expenses for the SDV member(s) that exceed \$35. An expense should be allowed if the service is provided by someone outside of the FAP group, someone in the FAP group has the responsibility to pay for the service in money and verification is provided (if required). PEM, p.1

A SDV person's medical expenses should be estimated for the benefit period. Medical expenses should be allowed when verification of the portion paid, or to be paid by insurance, Medicare, Medicaid, etc. is provided. Only the nonreimbursable portion of a medical expense should be budgeted. Allowable medical expenses include medical and dental care; hospitalization or nursing care; prescription drugs; costs of medical supplies,

sickroom equipment or other prescribed medical equipment; over the counter medication and other health related supplies when recommended by a licensed health professional; premiums for health and hospitalization policies; medicare premiums; dentures, hearing aids, prosthetics or assistance animal; eyeglasses when prescribed by an ophthalmologist or optometrist; actual costs of transportation and lodging necessary to secure medical treatment or services and the cost of employing an attendant, homemaker, home health aide, housekeeper, home help provider or child care provider due to age, infirmity or illness. PEM 554, p. 6-8

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.

In the instant case, Claimant agreed that the Department used the correct income and shelter expense figures in completing the January 28, 2009 and the February 25, 2009 FAP Budgets, but believes the Department should have taken more of her medical expenses and/or her health and diet requirements into consideration. I find that the Department budgeted all allowable expenses that were reported to the Department and/or verified by Claimant. If Claimant has additional expenses for the Department's consideration, she should bring them to the Department's attention so that it can make a proper determination.

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: August 6, 2009

Date Mailed: August 10, 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:

[REDACTED]