

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: 2009-30678

Issue No: 3002

Case No:

[REDACTED]

Load No:

Hearing Date:

September 28, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 September 28, 2009. Claimant appeared and testified.

The record was left open for the Claimant to submit proof of unemployment benefits paid to the Claimant. This Administrative Law Judge, to date, has not received any verification of unemployment benefits paid to the Claimant other than those submitted by the Department at the hearing.

ISSUE

Did the Department properly calculate Food Assistance Program benefits?

FINDINGS OF FACT

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

1. Claimant had been receiving ongoing FAP benefits on May 15, 2009. The Claimant completed a new FAP application as part of her FAP review.
2. In May 2009, the Department received notification that the Claimant had been receiving unemployment benefits. The Department completed a new budget and included the Claimant's unemployment. This resulted in a decrease in FAP benefits.
3. On June 2, 2009, the Claimant requested a hearing verbally regarding the FAP reduction. The Department reinstated benefits for June and issued a supplement for the month July. It appears no supplement was issued for the month of May.
4. On July 28, 2009, the Department requested verification from the Claimant regarding unemployment benefits.
5. On August 14, 2009, the Claimant was supposed to supply the Department with verification that she in fact wasn't receiving unemployment. The Claimant failed to submit any verification.
6. The Department submitted documentation from the Unemployment Application Inquiry showing the Claimant received unemployment prior to May 2009 and after May 2009.

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) 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).

In the present case, Claimant disputes the amount of her FAP benefit. The Claimant disagreed with the reduction of her benefits. The Department explained that the Claimant was found to be collecting unemployment benefits. The Department's previous budgets failed to include any unemployment income. The Department completed new budgets beginning the month of May 2009 which resulted in a drop of FAP benefits from \$367 to \$16 in FAP benefits. The Claimant asserts she had exhausted her unemployment benefits when she came in for her review in May 2009. The Claimant did receive unemployment benefits during the month of May. The Claimant asserts she received benefits for April in May. This is true, after reviewing the inquiry provided by the Department, the unemployment benefits received on or after May 6, 2009 were for the weeks of April 25th and May 2nd. The Claimant received a second amount on or after May 20, 2009 for the weeks of May 9th and May 16th. The record continues and shows the Claimant received on or after June 3, 2009 payment for the weeks of May 23rd and May 30th. From the record submitted the Claimant maintained benefits for the entire month of May and benefits continued after the month of May.

PEM 500, P. 36:

UNEMPLOYMENT BENEFITS

Unemployment benefits include:

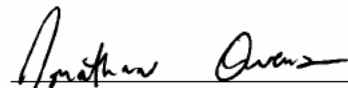
- Unemployment compensation benefits (UB) available through the Michigan Unemployment Insurance Agency (UIA) and comparable agencies in other states, and
- Supplemental unemployment benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income.

The Department correctly determined the Claimant's FAP budget should include the unemployment benefits. The Claimant maintained the prints provided by the Department were not accurate. The Claimant was given time to request verification from the unemployment office to demonstrate, in fact, she received something different than shown by the inquiry provided by the Department. To date, the Claimant has failed to provide any such evidence. The Department properly counted the unearned income received during the month. While the Claimant may have had to file for an extension to continue her benefits, it appears from the record before this Administrative Law Judge, she still continued to collect the same amount in benefits. There is no evidence that the Claimant failed to receive benefits of \$774 bi-weekly for each month including May and June 2009. Therefore, the Department's determination of FAP benefits is UPHELD.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department correctly budgeted and reduced FAP benefits and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 02/02/10

Date Mailed: 02/02/10

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

2009-30678/JWO

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.

JWO/dj

cc:

