

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: 2009-3406
Issue No: 3015, 5006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 29, 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 April 29, 2009. The Claimant personally appeared and testified. A Department JET specialist and a family independence manager represented the Department.

ISSUES

Did the Department properly determine Claimant ineligible for Food Assistance Program (FAP) benefits due to excess income?

Did the Department properly deny Claimant's request for State Emergency Relief (SER) on the grounds that he failed to pay his portion of the water bill to qualify for assistance?

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 applied for FAP benefits for a group size of four on June 20, 2008.
(Exhibit 2).
- (2) The FAP application was denied on August 19, 2008 due to excess income.
- (3) Claimant's monthly income for the group was determined to be [REDACTED] and included his mother's monthly [REDACTED] income of [REDACTED], the monthly [REDACTED] income he received in the amount of [REDACTED] and his wife's monthly [REDACTED] income of \$ [REDACTED]
- (4) Claimant's gross monthly income of [REDACTED] exceeds the gross income limit of [REDACTED] that was in effect for a group size of four in June 2008.
- (5) Claimant disagreed with the Department's determination on the grounds he made a mistake on his application when he included his mother.
- (6) Claimant applied for SER benefits on July 18, 2008 for a water bill of [REDACTED]. The Department found that Claimant's obligation for the water bill was [REDACTED].
- (7) Claimant was sent a Decision Notice dated July 18, 2008 stating that the Department payment of [REDACTED] would not be made until Claimant provided proof of his [REDACTED] payment by August 16, 2008.
- (8) Claimant paid the [REDACTED] on July 24, 2008 and provided payment receipt as proof (Exhibit 6) to the Department. Claimant asserted that he provided a copy of the payment receipt more than once prior to the August 16, 2008 deadline.
- (9) The Department denied his request for SER on the grounds that Claimant failed to timely pay his obligation of [REDACTED]

- (10) The Department received Claimant's hearing request on September 19, 2008. 2009. (Exhibit 5).

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 (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).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10 et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

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)

CHILD SUPPORT

All Programs

Definitions **Child support** is the money paid by an absent parent(s) for the living expenses of his/her child(ren). Medical, dental, child care and educational expenses may also be covered. Court-ordered child support may be either certified or direct.

Child support is income to the child for whom the support is paid. (PEM 500 p. 9)

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. (PEM 500 p. 29)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits (PEM 500, pg.1). Neither RSDI, child support, nor pension income is excluded the FAP budget. Claimant’s total gross income for the group size of four was [REDACTED] comprised of his mother’s monthly [REDACTED] income of [REDACTED], the monthly [REDACTED] income he received in the amount of [REDACTED] and his wife’s monthly [REDACTED] income of [REDACTED]. At the time of Claimant’s June 2008 FAP application, the gross income limit for a group size of four was

██████████. Therefore, in this case, the Department properly concluded that Claimant's ██████████ monthly earned income exceeded the gross income limit for a group size of four.

Regarding his request for SER, it is found that the Claimant timely paid his obligation of ██████████ and timely provided proof to the Department. Therefore, it is found that the Department improperly denied his request for SER for his water bill.

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 benefits due to excess income. The Department improperly denied his request for SER benefits for his water bill.

Accordingly, the Department's action is PARTIALLY REVERSED. The Department is ORDERED to retroactively pay ██████████ toward Claimant's water bill.

/s/ _____
Tyra L. Wright
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/04/09

Date Mailed: 05/06/09

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.

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