

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: 2009-37176
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 15, 2009
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 held on October 15, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly budget claimant's Unemployment Compensation Benefits (UCB), resulting in decrease in Food Assistance Program (FAP) benefits?

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 was a FAP recipient and receiving UCB when the department verified through Consolidated Inquiry that she was receiving \$25 per week increase in UCB.
2. Department then computed a new FAP budget in July, 2009, which resulted in a FAP decrease.

3. Claimant requested a hearing on August 10, 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 or department) 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).

Department only provided the Hearing Summary, an August 28, 2009 letter to the claimant explaining what was done on her FAP case prompted by her hearing request, and two pages from Bridges Eligibility Manual. Hearing testimony is therefore used as basis for this decision.

Claimant's first complaint is that the department multiplied her UCB income to reflect two months per year when she (like many others that receive either UCB or employment income) have three payment dates. Claimant states that she has several months at the beginning of the year when she gets only two checks per month. Department's policy directs the department to convert income to a monthly amount, using several methods. Department is to multiply weekly income by 4.3, amounts received every two weeks by 2.15, and to add amounts received twice per month. Claimant receives UCB benefits every two weeks, so the department must multiply those amounts by 2.15. Claimant's caseworker multiplied claimant's UCB by 4.3 for some unknown reason, but it is not believed that there would be any difference in the amount department budgeted either way. BEM 505.

Claimant's second complaint is questioning why the department used her UCB income at all. Claimant states that she worked in December, 2008 and applied for FAP at the end of this month. Claimant further states that she notified the department at application time that she would be receiving UCB, but still received over \$300 worth of FAP benefits for January, 2009. Claimant's UCB was budgeted for February, 2009, at which time her benefits decreased considerably. Claimant's argument is that she received a letter from the department approving her FAP benefits and that this letter stated she only needed to report changes in income that exceeded \$1,517 per month. Therefore, since her UCB income did not exceed this amount, she did not need to report it and department should not have budgeted it. Claimant also states that she assumed from this wording that the amount of her FAP benefits would not change/decrease as long as she did not have income in excess of \$1,517 per month.

Claimant's caseworker explained to the claimant several times that the notice applied to her having more than the stated amount, as that amount would result in excess income for FAP for her household of two. The notice did not say that income under this amount would not be budgetable. Claimant would not accept the explanations given and kept repeating that the notice stated she would not have to report income in excess of \$1,517 per month, and that any income under that amount should not have been budgeted on her FAP case.

Department's policy on Food Assistance Simplified Reporting (SR), BAM 200, applies to Food Assistance groups with countable **earnings**. This policy indeed requires such groups to report **only** when the group's actual gross monthly income exceeds the SR income limit for their group size. No other change reporting is required. Department's policy also clearly states that one of the groups not eligible for SR is Food Assistance group without countable **earned** income. Such groups continue to report changes using the standard Food Assistance reporting

criteria in BAM 105. This manual item specifies that groups with unearned income must report starting or stopping a source of unearned income, and change in gross monthly income of more than \$50 since the last reported change.

It would appear that since the claimant had earned income in the month of application, December, 2008, department either coded claimant's case incorrectly as SR, or Bridges computer system coded the case based on earned income entry for December, 2008 budget. Department's representative did not address any of these issues during the hearing. No computer printouts pertaining to actions on claimant's case were provided for the hearing, and the representative stated she would have to go to a different floor of the local office to even access Bridges for such information.

Even if the claimant was incorrectly coded as SR and sent the notice that pertained to households with earned income, department's budgeting of her UCB income that started in January, 2009 was correct, as departmental policy states:

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency 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. PEM, Item 500, p. 34.

Claimant also stated that she has mortgage expenses which appeared to have been taken into account on her FAP budget. Claimant however can request to meet with her caseworker and review her FAP budgets if she believes that such expenses were not taken into account.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly budgeted claimant's UCB income, resulting in decrease of her FAP benefits.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 21, 2009

Date Mailed: October 26, 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.

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