

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: 2009-5481
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 15, 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 Kalamazoo, Michigan on January 15, 2009.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance benefits (FAP)?

FINDINGS OF FACT

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

1. The Claimant is a FAP recipient.
2. On October 16, 2008, Claimant applied for FAP benefits. On [REDACTED], the Department completed a FAP budget which resulted in a monthly FAP benefit of [REDACTED], prorated in the amount of [REDACTED] for the month of [REDACTED]. Claimant received [REDACTED] in FAP benefits for the month of [REDACTED]. (Exhibits 1A, 1B, 2, 2A, 2B, 2C)

3. On November 17, 2008, the Department sent Claimant an Eligibility Notice which stated that Claimant was eligible for food stamps effective [REDACTED] and that she would receive [REDACTED] for [REDACTED] and [REDACTED] thereafter. (Exhibits 2D, 9)

4. On November 18, 2008, the Department received additional income verification (paystubs) which resulted in the completion of a new FAP budget on [REDACTED] and an increase in Claimant's FAP benefits to [REDACTED] beginning [REDACTED]. (Exhibit 3A, 3B, 4, 5, 6, 7)

5. On December 3, 2008, the Department sent Claimant an Eligibility Notice which stating that "Your FAP benefit will be [REDACTED] effective [REDACTED]. Benefit period is [REDACTED] to [REDACTED]." (Exhibit 8)

6. On November 17, 2008, Claimant filed a hearing request regarding her FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, 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. The amount counted may be more than the client actually receives because the gross

amount is used prior to any deductions. Unearned income means ALL income that is not earned and includes RSDI and SSI. PEM 500

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP – 10 calendar days). PEM 505

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. The change should not be processed for a month earlier than the month the change occurred. A supplement may be necessary in some cases. If verification is required or deemed necessary, the household must be allowed 10 days from the date the change is reported or the date verification is requested. The change must still affect the correct issuance month i.e., the month after the month in which the 10th day after the change is reported. PEM 505

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income for future benefits. In some cases, the department's estimate of the client's future monthly income will not equal the actual income received however, as long as the Department uses the best available information to determine future income, and there is no concealed information or mathematical error, the Department's estimate will not be determined inaccurate. All income is converted to a monthly amount. PEM 505

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500

In the instant case, while the December 3, 2008 Eligibility Notice sent to Claimant is certainly poorly worded, I find that the Department followed policy in completing a new FAP budget which resulted in an increase in benefits effective the following month.

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.

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

/s/

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

Date Signed: February 5, 2009

Date Mailed: February 19, 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

cc:

