

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: 2009-7625
Issue No: 2001; 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 25, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 February 25, 2009. Claimant appeared and testified.

ISSUES

- (1) Did the Department of Human Services properly close Claimant's Adult Medical Program (AMP) due to excess income?
- (2) Did the Department of Human Services properly reduce Claimant's Food Assistance Program (FAP) benefit amount due to increased income?

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 an ongoing recipient of Adult Medical Program (AMP) and Food Assistance Program (FAP) benefits.

(2) On November 7, 2008, claimant informed the department that he would begin receiving retirement benefits. Claimant did not report any other changes to his income or shelter expenses.

(3) On December 5, 2008, claimant's DHS caseworker included the retirement income in financial eligibility budgets for the Adult Medical Program (AMP) and Food Assistance Program (FAP). Claimant was sent a notice that his Adult Medical Program (AMP) would close and a notice that his Food Assistance Program (FAP) benefits would be reduced.

(4) On December 15, 2008, claimant submitted a request for hearing about both programs.

CONCLUSIONS OF LAW

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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).

None of the above facts are disputed. Claimant stated that since he began receiving the retirement income he is paying his own rent and no longer getting money from his brother. Claimant also stated he did not report any of those changes to the DHS case worker. The Adult Medical Program (AMP) and Food Assistance Program (FAP) financial eligibility budgets were discussed and explained to Claimant. Department policy provides the following guidance for caseworkers. The Department's policies are available on the internet through the department's website.

PEM 500 INCOME

DEPARTMENT POLICY

All Programs

This item discusses income for:

- Family Independence Program (FIP).
- State Disability Assistance (SDA).
- 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 might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as

stock dividends automatically reinvested and 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.

**CONTRIBUTION FROM FAMILY
AND FRIENDS
All Programs**

Money given to a person by family or friends is the person's unearned income. Count the gross amount actually received.

**RETIREMENT
INCOME-OTHER
All Programs**

Refer to the specific sections in this item for policies regarding:

- Railroad Retirement Board benefits.
- Retirement, Survivors and Disability Insurance (RSDI).
- U.S. Civil Service and Federal Employee Retirement System.

Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions. Count the gross benefit as unearned income.

Exception: Sometimes benefits are reduced because of a previous

overpayment. In such cases, the reduced amount is the gross amount.

See [“Returned Benefits.”](#)

Note: Allowances in pension benefits for the Medicare Part B premium are not considered a reimbursement and should be budgeted as unearned income.

PEM 640 ADULT MEDICAL PROGRAM

DEPARTMENT POLICY

AMP Only

The Adult Medical Program (AMP) is available to individuals who meet all the eligibility factors in this item. The Department of Community Health (DCH) will refer to this program as the Adult Benefit Waiver I. Certain aliens are limited to coverage of emergency services.

CATEGORIES

There are two categories of AMP.

- **G program (AMP-G)** - SDA cash payment recipients are automatically eligible for AMP when they:
 - Are not eligible for MA (see **“Exceptions”** on page 1) or other Department medical programs, **and**
 - Do not have private health care coverage (see [“Private Health Coverage”](#) below), and
 - There is not an enrollment freeze in effect in the month of application.
- **H program (AMP-H)** - Clients receive medical benefits only. Clients must meet all eligibility factors in this item.

FINANCIAL ELIGIBILITY FACTORS

AMP-H Group Use AMP policy in PEM 214.

Assets Determine countable assets based on AMP policy in PEM 400. The program group's countable assets cannot exceed the [AMP asset limit](#) in PEM 400.

Income Eligibility Application

Income eligibility exists when the program group's **net** income does not exceed the program group's AMP income limit.

Income Limit. The AMP income limits are in PRT 236. When the client's living arrangement changes during a month, use the living arrangement with the higher income limit.

COUNTABLE INCOME

AMP-H

Use only countable income. Countable income is income remaining after applying AMP policy in PEM 500.

AVAILABLE INCOME

AMP-H

Use only available income. Available means income which is received or can reasonably be anticipated. Available income includes amounts [garnisheed from income](#), [joint income](#), and [income received on behalf of a person by his representative](#). See PEM 500 for details.

EXTRA CHECK

AMP-H

Do not budget income that results from an extra check (e.g., 5th check for a person who is paid weekly).

AVERAGED INCOME

AMP-H

Average income received in one month which is intended to cover several months. Divide the income by the number of months it covers to determine the monthly available income. The average amount is considered available in each of the months.

BUDGET MONTH INCOME

AMP-H

Past Month

Non-averaged income: Use amount actually received in the past month. Do not budget an **“EXTRA CHECK.”** **Averaged income:** Use the monthly average amount if this month is one of the months used to compute the average.

Processing Month

Non-averaged income: At **application**, use amounts already received in the processing month. In addition, estimate amounts likely to be received during the remainder of the month. Base these estimated amounts on information provided by the client. Do not budget an **“EXTRA CHECK.”**

Averaged income: Use the monthly average amount if this month is one of the months used to compute the average.

Future Month

Non-averaged income: Use amounts that will be, or are likely to be, received in the future month.

Exceptions:

- Do not budget an extra check (e.g., 5th check for person paid weekly).
- Base estimate of daily income (e.g., insurance pays \$40 for very ay in hospital) on a 30-day month.

When the amount of income from a source changes from month to month, estimate the amount that will be received in the future month.

Example: For fluctuating earned income, use the expected hourly wage and hours to be worked, as well as the pay day schedule, to estimate gross earnings.

Averaged income: Use the monthly average amount if this month is one of the months used to compute the average.

Income Deductions

Individual Deduction. Deduct \$200 from a program group member's gross earnings. Then deduct 20% of the person's remaining gross earnings. The total disregard cannot exceed the person's gross earnings.

Group Deduction. Deduct the amount of court-ordered support paid by program group members in the month being tested from the program group's remaining income. The deduction can be no greater than the amount ordered for the month. Do not deduct arrearage payments.

When determining eligibility for Food Assistance Program (FAP) benefits in accordance with department policy, the total income of the household must be evaluated. All earned and unearned income of each household member must be included, unless specifically excluded. Program Eligibility Manual, Item 500. The Food Assistance Program (FAP) program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a Food Assistance Program (FAP) household member to work. A standard deduction from income is allowed for each household. The amount of the standard deduction depends on the number of members in the household. Certain non-reimbursable medical expenses above \$ [REDACTED] a month may be deducted for senior/disabled/veteran group members.

Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income, after all of the other deductions have been allowed. There is a maximum deduction for households that do not contain a member classified as a senior, disabled, or veteran. Program Eligibility Manual, Items 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the Food Assistance Program (FAP) budget and finds that the department properly computed the claimant's net income and expenses. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Program Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant's is eligible for a Food Assistance Program (FAP) allotment of \$78.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant's Adult Medical Program (AMP) due to excess income. The Department of Human Services also properly reduced Claimant's Food Assistance Program (FAP) benefits to \$ [REDACTED].

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 9, 2009

Date Mailed: March 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.

GFH [REDACTED]

cc: [REDACTED]