

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: 2009-10664
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 11, 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 March 11, 2009. The Claimant personally appeared and testified. An eligibility specialist represented the Department of Human Services (Department).

ISSUE

Did the Department properly compute the Claimant's Food Assistance (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 is a FAP recipient. His FAP group size is one.
- (2) Prior to November 2008, Claimant has been receiving [REDACTED] in monthly benefits.
- (3) In January 2008, Claimant moved to subsidized apartment. His rent payment is [REDACTED]. His utilities are included with his rent.

(4) Claimant's case was due for review in October 2008. On or about October 13, 2008, his Department worker advised him to apply for the home heating credit in January 2009, when applications would be received. She also told Claimant that due to the fact that he did not yet have the home heating credit, his monthly benefit allotment would be reduced from [REDACTED] to [REDACTED] based on his new shelter expenses.

(5) Claimant stated that he wanted to have a hearing before applying for the Home Heating Credit.

(6) On October 29, 2008, the Department sent Claimant an Eligibility Notice stating that his FAP benefit allotment would be [REDACTED] effective November 2008. (Exhibit 2).

(7) The Eligibility Notice also stated: "If you apply for the Home Heating Credit and qualify, send a copy to the Department of Human Services to have benefit amount determined."

(8) Claimant's November 2008 budget corrected reflected his rent expense of [REDACTED] and did not include a home heating credit. (Exhibit 4).

(9) Claimant disagreed with the reduction in his monthly allotment from [REDACTED] to [REDACTED] on the grounds that [REDACTED] per month is inadequate to meet his food needs.

(10) The Department received Claimant's hearing request on November 30, 2008. (Exhibit 6).

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).

DEPARTMENT POLICY

This item applies **only** to FAP.

Budget the following expenses to determine net income for FAP eligibility and benefit levels.

- Groups with **no** Senior/Disabled Veteran (SDV) member:
 - Dependent care expense, and
 - Excess shelter up to the maximum in RFT 255, and
 - Court ordered child support and arrearages paid to non-household members.

- Groups **with** one or more SDV ([see SDV Group in PEM 550](#)) member:
 - Dependent care expense, and
 - Excess shelter, and
 - Court ordered child support and arrearages paid to non-household members, and
 - Medical expenses for the SDV member(s) that exceed \$35.

Complete either a manually-calculated or LOA2 budget to document expenses every time an expense change is reported. (PEM 554, pg. 1).

MANDATORY HEAT AND UTILITY STANDARD

Heating/Cooling Separate from Housing Costs

A FAP group which has a heating/cooling (including a room air conditioner) expense or contributes to the heating/cooling expense separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs, except **actual utility expenses, i.e. installation fees** etc. (See [Actual Utilities](#) in this item.) Do **not** prorate the Heat and Utility Standard even if the heating/cooling expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards.

Heat Verification

Verify the heating obligation at application and when a change is reported, **except** for groups that verify they own or are purchasing their home.

Cooling Verification

Do not verify cooling verification.

Heat Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the provider for heating/cooling expenses.
- Collateral contact with the landlord or the heating/cooling provider.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense.
- DHS-3688, Shelter Verification.
- Current lease.

Cooling Verification Sources

Acceptable verification sources include but are not limited to client's statement.

Heat Included in Rent or Fees

FAP groups whose heat is **included** in their rent or fees are not eligible for the Heat and Utility Standard, **unless**:

- They are billed for **excess heat** payments from their landlord, **OR**
- They report that they received, applied for or will be applying for a Home Heating Credit warrant in the current

fiscal year (October through September) for their current address.

Verification Verify the excess heat expense at application and when a change is reported. Accept the client's statement regarding Home Heating Credit receipt or future application.

Verification Sources

Acceptable verification sources include, but are not limited to:

- Current bills or a written statement from the landlord for excess heat expenses.
- Collateral contact with the landlord.
- Cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense. (PEM 554, pg. 11-12).

Under PEM 554, FAP groups whose heat is included in their rent or fees are not eligible for the Heat and Utility Standard, unless, the group meets one of the exceptions. For example, if the FAP group reports that they "received, applied for or will be applying for a home heating credit warrant in the current fiscal year (October through September) for their current address," the group will be eligible for the Heat Utility Standard deduction.

In this case, when Claimant's case was reviewed in October 2008, he was not given the home heating credit because he had not applied for it. Claimant was advised to apply for the home heating credit in January 2009, the earliest applications could be taken. Claimant chose not to apply until after having this hearing. Although Claimant disagreed with his benefit allotment, he did not contend that the expenses included in his November 2008 budget were incorrect. There was no evidence that the Department erred in calculating Claimant's November 2008 budget. The undersigned has reviewed the budget for November 2008 and finds it to be correct.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly computed Claimant's FAP benefits.

Accordingly, the Department's action is AFFIRMED.

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

Date Signed: 3/19/09

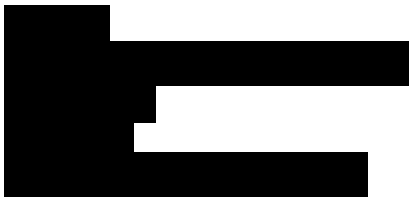
Date Mailed: 3/20/09 dj

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.

TW/dj

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