

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: 2009-10785

Issue No: 3002; 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 11, 2009

Dickinson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 March 11, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning with the claimant's application date of November 18, 2008?

FINDINGS OF FACT

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

1. The claimant applied for FAP benefits on November 18, 2008.
2. The claimant had income from Khoury Furniture. The department took four weeks of pay (10/31, 11/7, 11/14, and 11/21/2008) and used the 30 days of income, converted to a monthly amount ([REDACTED]) to project future earnings (Department Exhibit #11 – 14).

3. The claimant has occasional lay-offs when her employer does not have enough work for the employees. The claimant received unemployment benefits of \$ [REDACTED] for one week in October, November and \$ [REDACTED] in December, 2008 (Department Exhibit #70).

4. The claimant's husband receives SSI. In November, 2008 the claimant's husband received \$ [REDACTED] plus the State supplement of [REDACTED], for a total of \$ [REDACTED] (Department Exhibit #4).

5. The claimant's rent obligation is \$ [REDACTED] (Department Exhibit #15).

6. The department completed a budget for the claimant beginning the date of application (November 18, 2008) that included [REDACTED] of earned income (the claimant's averaged income) and \$ [REDACTED] of unearned income (the claimant's husband's SSI income). The department budgeted \$ [REDACTED] for the rent obligation and the standard [REDACTED] for utilities. This budget gave the claimant a FAP monthly benefit of [REDACTED], with the prorated benefit for the month of November to be [REDACTED] (Department Exhibit #16, 20).

7. For the month of December, the claimant's husband's SSI benefit changed to [REDACTED] plus the State supplement of \$ [REDACTED]. The department budgeted the SSI benefits as [REDACTED]. All other budgeted items remained the same. This brought the claimant's FAP benefit to [REDACTED] for the month of December, 2008 (Department Exhibit #21, 25).

8. The claimant's husband received [REDACTED] plus the State supplement of [REDACTED] in January, 2009. This made the claimant's husband's unearned income \$ [REDACTED] (Department Exhibit #46). The January budget includes \$ [REDACTED] for the claimant's averaged income and [REDACTED] for the claimant's husband's SSI income. Expenses remained the same. This brought the claimant's monthly benefit for January to \$ [REDACTED] (Department Exhibit #61).

9. For the February, 2009 budget, the claimant's husband's SSI income was again \$ [REDACTED] plus the \$ [REDACTED] State supplement, which brought the claimant's husband's unearned income to [REDACTED]. The claimant's unemployment income was averaged in for the February budget. The

department used three months (October, November, and December, 2008) to average the claimant's unemployment income. This averaged amount was \$ [REDACTED]. This is includable in the budget as unearned income. This brought the claimant's unearned income to [REDACTED], which computed to a monthly FAP benefit of [REDACTED] (Department Exhibit #75 – 76).

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 policy states:

INCOME

DEPARTMENT POLICY

All Programs

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. PEM, Item 500, p. 1.

SUPPLEMENTAL SECURITY INCOME (SSI)

All Programs

Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount paid by the state and the payment process varies by living arrangement. See PEM 660. For SSI recipients in independent living or household of another, refer to "Current SSA-Issued SSI", "Retroactive SSA-Issued SSI" and "State SSI Payments" below. For SSI recipients in other living arrangements, refer to just "Current SSA-Issued SSI" and "Retroactive SSA-Issued SSI". PEM, Item 500, p. 31.

Current SSA-Issued SSI

FIP, MA and TMAP

Exclude the amount of current SSA-issued SSI as income.

SDA, CDC, AMP and FAP Only

Count the gross amount of current SSA-issued SSI as unearned income. Include SSI withheld to recoup overpayments due to an IPV as defined below.

IPV means there was a finding of fraud or an agreement to repay in lieu of prosecution. Court recouped SSI only if IPV information is volunteered by the SSI recipient or other reliable source. You need NOT initiate any contacts.

Exception: The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.

Exclude SSI income received by an AMP client's spouse. PEM, Item 500, p. 31.

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.

PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

DEPARTMENT PHILOSOPHY

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. PEM, Item 505, p. 1.

DEPARTMENT POLICY

FIP, SDA, CDC and FAP

A group's financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see PEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). PEM, Item 505, p. 1.

Past Months

Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. See Standard Monthly Amount in this item.

Exception: Prospective income may be used for past month determinations when:

- . income verification was requested and received, and
- . payments were received by the client after verifications were submitted, and
- . there are no known changes in the income being prospected. PEM, Item 505, p. 2.

Non-Child Support Income

Using Past Income

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

Note: The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, if:
 - .. the past 30 days is not a good indicator of future income, and
 - .. the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

Note: The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. PEM, Item 505, pp. 5-6.

Standard Monthly Amount

Stable and Fluctuating Income

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

Exception: Do not convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. PEM, Item 505, p. 7.

Contractual/Single Payment Income

For income received in one month intended to cover several months, establish a standard monthly amount by dividing the income by the number of months it covers. Consider this amount available during each month covered by the income.

Irregular Income

For irregular incomes, determine the standard monthly amount by adding the amounts entered together and dividing by the number of months used.

The claimant's case is a difficult one to budget for FAP benefits due to the fluctuations in the amounts of earned and unearned income the claimant and her husband receives. Department policy requires the department to average income that fluctuates. PEM 505.

Fluctuating income received more than monthly is to be averaged into a monthly amount by taking the average weekly amount and multiplying it by 4.3. The claimant provided the department with four weeks of paycheck stubs. The department properly took the four weekly amounts, added them together, and divided by four to get a weekly average. This was properly multiplied by 4.3 by the department for a total of \$ [REDACTED]. This average was properly used by the department for the claimant's earned income.

Department policy requires the department to convert irregular income into a standard monthly amount. Department policy indicates that fluctuating or irregular income should be averaged with a 60 or 90 day period. PEM 505. The claimant's unemployment compensation (UCB) is an irregular payment. Thus, the department properly took three months (90 days) of the UCB (October, November and December, 2008) and divided it by three to get an average monthly amount. This amount was not included until the February budget, which actually benefited the claimant as it could have been budgeted prior to the February budget.

The claimant's husband's SSI income changed somewhat due to a cost-of-living increase. However, the department had the benefit of being able to print the Social Security Administration (SSA) data on the SSI payment amounts each month. Thus, the department was able to use the actual monthly amounts for the claimant's SSI as they could get the information from the SSA. Thus, the budgeting of the SSI amounts by the department was according to department policy.

The claimant's expenses have not changed and were properly budgeted on each month's budget. Therefore, after review of each of the budgets and applying department policy to average the income, this Administrative Law Judge determines that the department did properly budget the claimant's FAP case for each month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly budget the claimant's FAP case for each month beginning the date of application, November 18, 2008.

Accordingly, the department's actions are AFFIRMED. SO ORDERED.

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 26, 2009

Date Mailed: March 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.

SLK 

cc: 