

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: 2009-11179  
Issue No: 3003  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 16, 2009  
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on June 16, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly propose to reduce claimant's monthly Food Assistance Program (FAP) benefit at review?

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 the grantee-member of a five person FAP group residing in [REDACTED]  
[REDACTED].

(2) In December, 2008, the department initiated a mandatory review of claimant's case to determine the group's continued eligibility and monthly FAP benefit level as required by PAM Item 210.

(3) Claimant timely submitted verifications of her income and her husband's income (Department Exhibit #1, pgs 5-10).

(4) When the department calculated claimant's group's monthly FAP benefit level using these verifications they used the prospective budgeting techniques required by PEM Item 505, pgs 2-6 (Department Exhibit #1, pgs 11 and 12).

(5) On January 9, 2009, the department mailed claimant notice advising her the group's new monthly FAP benefit would be reduced to [REDACTED], in accordance with RFT 260, pg 21.

(6) On January 13, 2009, claimant timely requested a hearing; consequently, the department deleted the negative action while her appeal was pending.

#### 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).

A mandatory review/redetermination is a periodic, thorough re-evaluation of all eligibility factors to determine whether the group continues to be eligible for program benefits. A

complete redetermination is required at least every 12 months and sometimes more frequently, if policy requires it. PAM Item 210, pgs 1 and 2. The specific income definitions and budgeting rules applied by the department in this case state as follows:

## **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.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

#### **Wages**

#### **All Programs**

**Wages** are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

**Exception:** Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

PEM, Item 500, p. 15.

## **DEPARTMENT PHILOSOPHY**

The Department's income budgeting policies are designed to support financial self-sufficiency by encouraging families to pursue all available means of income. We offer deductions from earned income so that families are financially advantaged by working. Staff should stress to clients the advantages of obtaining outside income. PEM, Item 518, p. 1.

Countable income is defined in PEM 500. Available income, the amount of income to budget and when to complete a budget are defined in PEM 505. Use this item to determine the program group's budgetable income and financial eligibility. PEM, Item 518, p. 1.

## **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.

### **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.

**Available income:** Income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated and the date of receipt is known. Available income includes garnisheed amounts and income received jointly. See PEM 500. PEM, Item 505, p. 1.

**Stable income:** Income received on a regular schedule that does not vary from check to check based on pay schedules or hours worked. Examples: a job in which the paycheck amounts don't vary and are paid on a regular schedule; or RSDI or SSI. PEM, Item 505, p. 1.

**Fluctuating income:** Income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. PEM, Item 505, p. 1.

**Irregular income:** Income that is not received on a regular schedule or that is received unpredictably, such as a person self-employed doing snow removal. PEM, Item 505, p. 2.

### **Income Increase**

#### **FIP, SDA, FAP**

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, FIP/SDA - 15 workdays). The effective month is the first full month that begins after the CIMS Negative Action Effective Date. PEM, Item 505, p. 9.

Furthermore, the department is explicitly charged with the responsibility to use the group's income from the past 60 or 90 days if the past 30 days is not a good indication due to fluctuating or irregular income of the type present in this case.

- . 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.

This Administrative Law Judge finds the department properly applied the above-referenced policy and properly determined claimant's group was eligible for a [REDACTED] monthly FAP benefit at review. As such, the department's action must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly proposed to reduce claimant's monthly FAP benefit at review.

Accordingly, the department's action is AFFIRMED.

/s/ \_\_\_\_\_  
Marlene B. Magyar  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: June 23, 2009

Date Mailed: June 23, 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.

2009-11179/mbm

MBM/db

cc:

