

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: 2009-12087
Issue No: 3002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 18, 2009
Newaygo 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 18, 2009. The claimant personally appeared, along with her representative, [REDACTED] (claimant's daughter), who provided testimony.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits effective January, 2009?

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 department received a Mid-Certification Contact Notice (DHS-2240-A) from the claimant on November 12, 2008. The claimant indicated a change in her monthly rent amount (Department Exhibit #4-5).

2. The claimant's amount of RSDI and SSI also increased. The claimant's RSDI went from [REDACTED] to [REDACTED] and her SSI increased from [REDACTED] to [REDACTED] (Department Exhibit #1, 2, 6, 7).

3. Effective January 1, 2009, the department budgeted these new amounts in the claimant's FAP budget. The claimant also received a \$ [REDACTED] standard non-heat electric expense deduction (Department Exhibit #1).

4. This brought the claimant's monthly FAP benefit to \$ [REDACTED] (Department Exhibit #1).

5. The claimant was sent an Eligibility Notice on December 2, 2008, indicating that her monthly FAP benefit would be \$ [REDACTED] beginning January 2009 (Department Exhibit #3).

6. The department received the claimant's hearing request on January 20, 2009.

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.

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

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.

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

The claimant's representative testified that she disagreed with the monthly amount of the FAP benefit her mother was receiving. She testified that someone else that lives in the building has the same amount of income and expenses as her mother and yet she receives a much larger FAP benefit. While the circumstances of this other person are not known, this Administrative Law judge went through each of the items contained in the claimant's budget with the claimant's representative. The claimant's representative indicated each of the budgeted items was correct. Therefore, this Administrative Law Judge explained to the claimant and her representative that the formula is set by the federal government and the department has no discretion on how to implement the formula, simply on entering the budget items.

Department policy requires the department to budget the gross amounts of both RSDI and SSI as unearned income for the FAP program. PEM 500. This was done by the department. The claimant's rent and non-heat electric were also budgeted properly. Thus, the claimant's monthly allotment of FAP benefits is correct.

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 benefit effective January 2009.

Accordingly, the department's action is AFFIRMED. SO ORDERED.

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

Date Signed: March 23, 2009

Date Mailed: March 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.

SLK 

cc:

