

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: 2009-14485

Issue No: 3002; 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 24, 2009

Wayne 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 24, 2009. The claimant personally appeared and testified.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) monthly benefit beginning December, 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 was receiving FAP benefits when the department received a report that the claimant was receiving unemployment compensation benefits (UCB) in the amount of [REDACTED] weekly (Department Exhibit #2).

2. The department worker averaged the UCB income to get a monthly average by taking the weekly amount (██████) and multiplying it by 4.3. This provides a monthly unearned income amount of ██████ (Department Exhibit #1).

3. The department added in the claimant's average unearned income beginning the December, 2008 budget. The claimant pays child support in the amount of ██████ which was included in the budget. He indicated a rent expense of ██████ on his Assistance Application (DHS-1171), which included utilities. This amount was included in the budget for his shelter expense (Department Exhibit #1).

4. The department computed the claimant's FAP budget with these numbers and the monthly benefit was ██████ (Department Exhibit #1).

5. The claimant turned in a hearing request on February 17, 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 indicates:

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.

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.

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.

DETERMINING BUDGETABLE INCOME

FIP, SDA, CDC, FAP

Determine budgetable income using countable, available income for the benefit month being processed. 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.

WHEN TO COMPLETE A BUDGET

FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- . the department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- . a reported change results in the need to convert income to or from a standard monthly amount. PEM, Item 505, p. 8.

Department policy requires the department to complete a budget when they are made aware of a change in income that will affect the claimant's eligibility or benefit level. PEM 505.

The department did receive notice that the claimant was receiving UCB income. The department completed a budget to include the UCB income beginning in December, 2008. The amount of

UCB the claimant receives each week is \$ [REDACTED]. The department is required to multiply this amount by 4.3 to get a monthly amount, which is [REDACTED] PEM 505. Thus, the amount included in the budget for UCB beginning in December, 2008 is correct.

The claimant testified that he does pay child support for his children and that the amount the department budgeted was correct. Therefore, the department properly budgeted the [REDACTED] the claimant pays in child support.

The claimant testified that his rent expense was [REDACTED] each month, not [REDACTED]. However, the department representative checked the claimant's Assistance Application (DHS-1171) and the claimant did indicate his rent expense was [REDACTED]. The claimant was shown the application in which he lists his rent expense at [REDACTED]. The department representative testified that she had just received in the mail a document from the claimant indicating his rent expense was [REDACTED] and the department worker testified that she had made that change for the April, 2009 budget. However, no information was received by the department prior to the documentation in March, 2009 that his rent expense had changed. Thus, the department properly budgeted the claimant's rent expense of [REDACTED] which included utilities.

The income and expenses of the claimant were properly entered by the department for the claimant's FAP budget. The monthly allotment of \$ [REDACTED] is correct. It is noted that the claimant's benefit for April, 2009 will change due to the department including the \$600 rent expense.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly budgeted the claimant's FAP case beginning in December 2008.

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 26, 2009

Date Mailed: March 30, 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 [REDACTED]

cc: [REDACTED]