

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: 2009-14555
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 23, 2009
Grand Traverse 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 23, 2009. The Claimant personally appeared and testified. A family independence manager represented the 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 benefits recipient for a group size of three, which includes his spouse and a child.
- (2) In January 2009, Claimant's FAP case was due for review. Consequently, Claimant completed an application, DHS-1171.

- (3) Claimant receives monthly SSI income in the amount of [REDACTED] and RSDI income in the amount of [REDACTED]. (Exhibit 1, pg. 1). Claimant receives a net monthly RSDI payment of [REDACTED] because a child support payment is deducted from his RSDI income. (Exhibit 1, pg 2).
- (4) Claimant's son receives a monthly RSDI income of [REDACTED] (Exhibit 2).
- (5) Claimant pays court-ordered child support in the total amount of [REDACTED] monthly. (Exhibit 3).
- (6) Claimant's monthly shelter expense is [REDACTED]. (Exhibit 4).
- (7) The Department calculated Claimant's February 2009 budget on January 30, 2009 and determined that Claimant was eligible for [REDACTED] in monthly FAP benefits. (Exhibit 5).
- (8) The Department sent Claimant an Eligibility Notice on January 30, 2009, stating that he would receive [REDACTED] in monthly benefits effective February 2009.
- (9) Claimant disagreed with the Department and believed that his budget is incorrect because the Department budgets [REDACTED] for his RSDI income instead of [REDACTED], his net payment.
- (10) The Department received Claimant's hearing request on February 10, 2009. (Exhibit 7).

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).

Federal law requires that FAP recipients meet income eligibility standards to receive benefits:

Income and deductions.

(a) *Income eligibility standards.* Participation in the Program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. Households which contain an elderly or disabled member shall meet the net income eligibility standards for the Food Stamp Program. Households which do not contain an elderly or disabled member shall meet both the net income eligibility standards and the gross income eligibility standards for the Food Stamp Program. Households which are categorically eligible as defined in §273.2(j)(2) or 273.2(j)(4) do not have to meet either the gross or net income eligibility standards. The net and gross income eligibility standards shall be based on the Federal income poverty levels established as provided in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)). (7 CFR 273.9)

CHILD SUPPORT EXPENSES

Allow the following child support expenses:

- The amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month.
- Court-ordered third party payments (e.g., landlord or utility company) on behalf of a non-household member.
- Legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household.

Do not allow more than the household's legal obligation. The child support expense **must be paid** to be allowed. (PEM 554, pg.4-5)

**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.

- Special rules apply when determining MA eligibility of certain former SSI recipients. See PEM 155, 156, 157 and 158. These special rules do NOT apply to post-eligibility patient-pay amount calculations in PEM 546.
- Exclude Medicare premium refunds as income and as assets. Refunds are made because there is a delay of about 120 days between when Medical Services Administration initiates Medicare buy-in and a person's benefit check actually changes. See PAM 810 for more information.
- 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.
- See “Returned Benefits.” (PEM 500, pg. 29-30)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). RSDI is not excluded income. In addition, PEM 500 requires the Department to “count the gross” RSDI benefit amount as unearned income.

Therefore, in this case, the Department properly counted [REDACTED], the gross amount of Claimant’s RSDI income when calculating his FAP budget. Claimant did not dispute any other expenses or income listed on the February 2009 budget. The undersigned has reviewed the February 2009 budget 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: 03/31/09

Date Mailed: 03/31/09

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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