

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: 2009-15297

Issue No: 3002

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 31, 2009

Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 31, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits to affect March, 2009 issuance, resulting in decrease of such 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 was a recipient of FAP benefits when he received the annual RSDI/SSI increase.
2. Department then computed a new FAP budget. Department used claimant's gross employment income of [REDACTED] per month, his RSDI of [REDACTED] per month, and his SSI of [REDACTED] per

month, [REDACTED] of which is the State SSI Quarterly payment divided by 3 months (Department's Exhibits #1-5).

3. Department allowed as claimant's shelter expenses his rent of [REDACTED] per month and heat/utility/including telephone standard of [REDACTED] per month (Department's Exhibit #8).

4. Department's new FAP budget resulted in determination that the claimant was now entitled to [REDACTED] per month in FAP benefits, a decrease from [REDACTED] he was previously receiving.

5. Claimant was notified of department's action on January 30, 2009, and he requested a hearing on February 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).

Departmental 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.

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.

PEM, Item 500, p. 15.

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.

Claimant was receiving employment wages, RSDI and SSI at the time that the department computed his FAP budget, and he does not contest the amount of income budgeted by the department from these sources. Claimant however, states that his income has decreased in the last 2 weeks. Claimant was advised that he must provide verification of stopped income, and department's representative will give the claimant the appropriate verification form following the hearing.

Claimant also stated that his rent has increased. Claimant had not reported the increase to the department previously. Department's representative will also give the claimant a new rent form to be completed by his landlord so the increased rent can be considered in the FAP budget.

This Administrative Law Judge told the claimant that he needs to provide the verification of stopped/decreased income and increased rent to the department as soon as possible, as these changes could very well result in increase in his FAP benefits. Claimant responded several times that his FAP benefits are "not fair". Department had budgeted all of claimant's income and expenses correctly, based on verifications he provided from his employer and landlord and on computer matching reports with Social Security Administration. The Administrative Law Judge does not have any equity powers (i.e. to decide what is "fair" or "not fair"), but only the power to

review department's actions and whether they were in accordance with department's policy and federal rules and regulations.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed the amount of FAP benefits for March, 2009 that the claimant was entitled to receive, resulting in decrease of such benefits.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 6, 2009

Date Mailed: April 6, 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.

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