

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: 2009-16572  
Issue No: 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 22, 2009  
Genesee 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 April 22, 2009. Claimant personally appeared and testified. An Arabic translator participated in the hearing. An eligibility specialist 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 one.
- (2) In March 2009, Claimant began receiving [REDACTED] in monthly FAP benefits.
- (3) Claimant receives social security income of [REDACTED] (Exhibit 21).
- (4) Claimant's monthly shelter expense is [REDACTED]. (Exhibit 26).

- (5) Claimant disagrees with his April 2009 FAP budget on the grounds that the budget did not include his medical co-pay and other medical expenses.
- (6) The Department received Claimant's hearing request on March 6, 2009. (Exhibit 29).

### 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)

**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 March 2009 FAP budget. Claimant did not dispute any other expenses or income listed on the March 2009 budget. The undersigned has reviewed the March 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 for March 2009.

Accordingly, the Department's action is AFFIRMED.

/s/  
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Tyra L. Wright  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 04/28/09

Date Mailed: 04/28/09

**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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