

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: 2009-16933
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 23, 2009
Eaton 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 April 23, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits claimant was entitled to receive?

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 completed an Assistance Application in November, 2008 and listed her husband as working at [REDACTED] as a laborer, 40 hours per week at [REDACTED] per hour and getting paid weekly. (Department's Exhibits 4-18).

(2) Claimant's husband is a co-owner of [REDACTED] along with his mother. Claimant provided income receipts and expense receipts for October, November and December, 2008. (Department's Exhibits 19-86).

(3) Department computed a FAP budget counting [REDACTED] net monthly income for claimant's husband, by taking the average of last 3 months income and expenses. This computation resulted in finding that the claimant was entitled to [REDACTED] in FAP benefits per month.

(4) Claimant filed a hearing request on March 9, 2009 stating that [REDACTED] monthly income was incorrect, according to their taxes the mill made [REDACTED] last year and that is split with her mother in law, and that [REDACTED] per month is paid out in child support.

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.

Exception: The amount of self-employment income before any deductions is called **total proceeds**. The **gross** amount of self-employment income means the amount after deducting allowable expenses from total proceeds, but before any other deductions. PEM, Item 500, p. 1.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

GARNISHMENT OR OTHER WITHHOLDING

All Programs

Income includes amounts withheld from income which are:

- . voluntary, or
- . to repay a debt, or
- . to meet a legal obligation. PEM, Item 500, p. 2.

Claimant states that her husband and his mother own the feed company, but that his mother does not pay him, and that her household does not have any income whatsoever.

Claimant also stated on her hearing request that the feed company made [REDACTED] in income last year according to their income tax reporting, and that this amount had to be shared with the mother in law. Claimant's statements are not credible, as at the same time she claims her husband received [REDACTED] worth of income in year 2008, she also claims that he pays out over [REDACTED] per month in child support, support he still pays while allegedly not having any income whatsoever. Claimant stated on her November, 2008 application that the child support order amount is [REDACTED] and amount paid is also this amount. Department has allowed the child support expense on the FAP budget. Furthermore, claimant's husband is a part owner of the business and as such has legal right to income from the business. When claimant was asked why her husband is working for no money at all instead of finding a job that pays him, she states he wants to, and how her mother in law puts all the profits from the business in her own bank account. This Administrative Law Judge finds that the claimant did not present a persuasive argument to conclude that her husband is working for nothing at 40 hours per week, and that he receives no money from his own company. Department's computation of claimant's household income is therefore found to be correct, as it is based on information provided by the claimant about income and expenses from her husband's business.

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 claimant was entitled to receive.

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 28, 2009

Date Mailed: April 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.

IR/db

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