

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: 2009-17760  
Issue No: 3002  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
May 7, 2009  
Wayne 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 May 7, 2009. The Claimant personally appeared and testified. A family independence manager and a JET specialist represented the Department.

ISSUE

Did the Department properly compute the Claimant's Food Assistance Program (FAP) benefits budget for March 2009?

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 that includes her husband. Claimant had been receiving \$463 in monthly FAP benefits prior to the March 2009 budget.
- (2) In January 2009, Claimant's husband began receiving unemployment benefits in the amount of \$724 biweekly. (Exhibits 2 and 5).

- (3) On February 11, 2009, the Department worker calculated Claimant's March 2009 budget to include the husband's unemployment benefits. The March 2009 FAP budget resulted in a monthly allotment of \$36.
- (4) Claimant disagreed with the reduction in her monthly FAP benefits from \$463 to \$36 on the grounds that her husband's unemployment was reduced to \$685 as the week ending March 21, 2009 to allow the Unemployment Agency to recoup an overpayment of benefits to her husband. (Exhibit 5).
- (5) The Department received Claimant's hearing request on February 17, 2009. (Exhibit 4).

#### 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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies for FAP and MA 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)

**UNEMPLOYMENT BENEFITS**

**All Programs except FTW**

Unemployment benefits include:

- Unemployment compensation benefits (UB) available through the Michigan Unemployment Insurance Agency (UIA) 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.

**FTW Only**

Exclude as income.

**Exception:** Sometimes benefits are reduced because the person has earnings. In such cases, the reduced amount is the gross amount. See “Returned Benefits” about excluding amounts listed under recoupment on the Unemployment Insurance Agency payment stub. (PEM 500, p. 36)

**Returned Benefits All Programs**

Exclude benefit checks returned to the issuing agency as income and as an asset.

Exclude amounts deducted by the issuing agency to recover a previous overpayment or ineligible payment.

***Exceptions:***

- Count any portion of an overpayment (that is normally countable) if the original payment was excluded when received.
- **For FIP, SDA, RAP and FAP**, count SSI recoupment amounts due to IPV (see below). **In FAP**, also count FIP, SDA and RAPC recoupment amounts due to IPV.

IPV means there was a finding of fraud or an agreement to repay in lieu of prosecution. Count recouped SSI only if IPV information is volunteered by the SSI recipient or other reliable source. You need NOT initiate any contacts. (PEM 500, p. 6)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Unemployment compensation benefits are not excluded income. At the time that Claimant’s March 2009 budget was calculated, her husband received unemployment benefits in the amount of \$724 bi-weekly (budgeted as \$1,556 in monthly unemployment compensation). Therefore, the Department properly calculated Claimant’s March 2009 FAP budget based on the information available to the Department at the time. The undersigned has reviewed the March 2009 FAP 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 budget for March 2009.

Accordingly, the Department’s action is AFFIRMED.

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

Date Signed: 05/12/09

Date Mailed: 05/14/09

**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

cc:

