

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: 2009-19338

Issue No: 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 21, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 May 21, 2009. The claimant personally appeared and provided testimony, along with his aunt, [REDACTED] and [REDACTED] from the [REDACTED]

ISSUE

Did the department properly determine the claimant's FAP budget beginning April, 2009 and determine that the claimant was not eligible to have his medical expenses included in his FAP budget?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The claimant was an active FAP recipient, when he provided information of a new rent expense and the addition of a telephone expense (Department Exhibit #1).

2. The department worker completed a new budget for the claimant, effective April, 2009, that included the higher rent expense of \$460.00 and the telephone standard deduction of \$33.00. The claimant's income remained at \$1,462.00 and his non-heat electric standard remained at \$93.00. This budget showed a monthly FAP benefit of \$16.00 (Department Exhibit #2).

3. The claimant submitted a hearing request on April 2, 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).

Department policy states:

#### **SDV GROUP**

An SDV FAP group is one which has an SDV member. PEM, Item 550, p. 1.

#### **Senior**

A person at least 60 years old. PEM, Item 550, p. 1. 7 CFR 271.2.

#### **Disabled**

A person who receives one of the following:

- . A federal, state or local public disability retirement pension **and** the disability is considered permanent under the Social Security Act.

- . Medicaid, CIMS program codes O or P (which require a disability determination by MRT or Social Security Administration).
- . **Note:** Breast and Cervical Cancer Prevention and Treatment Program Medicaid cases are **not** considered disabled.
- . Railroad Retirement **is** eligible for Medicare or meets the Social Security disability criteria.

A person who received or has been certified and awaiting their initial payment for one of the following:

- . Social Security disability or blindness benefits.
- . Supplemental Security Income (SSI), based on disability or blindness, **even if** based on presumptive eligibility. PEM, Item 550, pp. 1-2, 7 CFR 271.2.

#### **Disabled Veteran**

One of the following:

- . A veteran of the armed services with a service or non-service connected disability rated or paid as total by the Veterans Administration
- . A veteran's surviving spouse or child who receives or is approved for VA disability benefits, or is entitled to VA death benefits and has a disability considered permanent under the Social Security Act. PEM 550, pp. 1-2.

#### **FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING**

#### **DEPARTMENT POLICY**

This item applies **only** to FAP.

Budget the following expenses to determine net income for FAP eligibility and benefit levels. PEM, Item 554, p. 1.

- . Groups with **no** Senior/Disabled/Veteran (SDV) member:
  - .. dependent care expense up to the maximum in RFT 255, and
  - .. excess shelter up to the maximum in RFT 255, and

- .. court ordered child support and arrearages paid to non-household members. PEM, Item 554, p. 1.
- . Groups **with** one or more SDV member:
  - .. dependent care expense up to the maximum in RFT 255; and
  - .. excess shelter, and
  - .. court-ordered child support and arrearages paid to non-household members, and
  - .. medical expenses for the SDV member(s) that exceed \$35 PEM, Item 554, p. 1.

Department policy indicates that only FAP groups with a SDV member can deduct medical expenses for the SDV member that exceed \$35. PEM 554. The claimant does not qualify as a senior or as a veteran. The claimant and [REDACTED] indicate that the claimant is disabled as he is only able to work by incurring large medical bills to treat his disability and by being provided with substantial accommodations from his employer. The claimant and [REDACTED]. [REDACTED] testified that the claimant has not yet applied for any Social Security Administration (SSA) benefits.

Department policy explains that the FAP criteria for disability is tied to the Social Security Administration's definition of disabled. PEM 550. Department policy points out that a claimant must have been determined to be disabled by either the SSA or the Medical Review Team (MRT). In this case, the claimant has not applied for any SSA disability benefits. The claimant and [REDACTED] testified that the Disability Network was beginning the process of helping him apply. Thus, this Administrative Law Judge pointed out that once the application was turned in, a copy should be provided to DHS to allow them to consider the new information, although it was pointed out that the claimant may still have a problem with eligibility due to his income.

However, at this time, the department properly excluded the medical expenses from the FAP budget as the claimant does not have any SDV group member in his FAP group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant's FAP budget effective April, 2009 and properly excluded any medical costs the claimant incurred from the budget.

Accordingly, the department's actions are UPHELD. SO ORDERED.

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

Date Signed: June 1, 2009

Date Mailed: June 1, 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.

SLK [REDACTED]

cc: [REDACTED]