

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: 2009-21253
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 17, 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 June 17, 2009. The Claimant personally appeared and testified. A family independence specialist represented the Department.

ISSUE

Did the Department properly compute the Claimant's Food Assistance Program benefits 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 two, which includes her teenage daughter.
- (2) Claimant receives \$14 in monthly FAP benefits. (Exhibit 2)

- (3) Claimant received child support income. Claimant explained that the amount of child support income she receives monthly fluctuates. The Department calculated her child support income based on a three-month average. The Department considered that Claimant received \$2,165 for November 2008, \$560 for December 2008 and \$100 in January 2009. Consequently, the Department budgeted \$941.69 for monthly child support income. (Exhibit 2).
- (4) Claimant's earned income of \$1001 was also included in her budget. She disagreed on the grounds she only earned \$900 monthly in earned income. (Exhibit 1).
- (5) Claimant contends that she does not have shelter expenses because she stopped paying rent in anticipation of an eviction.
- (6) Claimant disagrees with her monthly FAP benefit amount on the grounds that her child support income fluctuates widely from month to month, her earned income was only \$900 monthly, and her teenage daughter is pregnant.
- (7) The Department received Claimant's hearing request on April 13, 2009. (Exhibit 1).

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)

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. (PEM 500, p. 36)

CHILD SUPPORT All Programs

Definitions Child support is the money paid by an absent parent(s) for the living expenses of his/her child(ren). Medical, dental, child care and educational expenses may also be covered. Court-ordered child support may be either certified or direct.

Child support is income to the child for whom the support is paid. (PEM 500 p. 9)

SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed.

Late fees and/or penalties incurred for shelter expenses are **not** an allowable expense. (PEM 554, p. 9).

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Earned income and child support income is not excludable income. Claimant did not offer evidence that the Department used incorrect pay records to computer her monthly income from her job. In addition, there was no evidence that the Department erred in computing her child support income based on the information available at the time the budget was determined. Claimant is aware that she can provide the Department with updated information when her income has changed. The undersigned has reviewed the January 2009 FAP budget and finds it to be correct. Consequently, it is found that the Department did not err in determining Claimant’s monthly FAP benefit allotment.

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 January 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: 06/25/09

Date Mailed: 06/29/09

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:

