

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: 2009-22128
Issue No: 3002; 2013
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2009
Van Buren 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 June 16, 2009. The claimant personally appeared and provided testimony, along with her husband, [REDACTED]

ISSUES

1. Did the department properly budget the claimant's Food Assistance Program (FAP) case beginning in March, 2009?
2. Did the department properly provide the claimant and her husband with Medical Assistance (MA) coverage?

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 submitted an application for MA and FAP benefits on March 31, 2009. (Department Exhibit 1 – 14).

2. The claimant had been receiving Family Independence Program (FIP) benefits for her grandson, whom she and her husband have guardianship of. (Department Exhibit 29).

3. The claimant has been receiving Unemployment Compensation Benefits (UCB) in the amount of \$339.00 weekly. The claimant's UCB was exhausted in April, 2009 (Department Exhibit 95).

4. The claimant's son, [REDACTED], is employed with OnStaff USA. The claimant provided two months of paycheck stubs for [REDACTED] (Department Exhibit 96 – 104).

5. The claimant's husband, [REDACTED], quit a job in September, 2008. The department sanctioned the claimant's FAP case because of the job quit by removing the claimant's husband from the FAP group.

6. In April, 2009, the claimant provided the department with a doctor's note showing the claimant's husband has emphysema and chronic interstitial changes, to show that the claimant's husband had to quit his job due to health reasons. (Department Exhibit 105).

7. Beginning the month of May, 2009, the claimant's husband was placed back into the FAP group as the medical documentation was received. (Department Exhibit 106).

8. The claimant and her husband are currently active MA recipients, along with the grandchild they have custody of. (Department Exhibit 107, page 2).

CONCLUSIONS OF LAW

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 (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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:

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.

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.

FIP, SDA, CDC and FAP Only

Disregard the earnings of a person who is:

- . under age 18, and
- . attending elementary, middle or high school, and
- . living with someone who provides care or supervision.
PEM, Item 500, p. 7.

LIF Only

Disregard the earnings of a dependent child in the LIF qualified group.

G2P, G2U and Healthy Kids

Disregard the earnings of a person under age 19 who is living with someone who provides care or supervision.

PEM, Item 500, p. 7.

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency 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, Item 500, p. 34.

BUDGETING INCOME

Use the following guidelines to budget income.

Stopping Income

For stopping income, budget the final income expected to be received in the benefit month. Use the best available information to determine the amount of the last check expected. Use information from the source and from the client. Remove stopped income from the budget for future months. PEM, Item 505, p. 7.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. PEM, Item 550, p. 1.

DISQUALIFIED OR INELIGIBLE PERSONS

Budgeting income for disqualified persons living with the FAP group differs based on the reason for the disqualification. FIP/SDA benefits are considered the unearned income of the FIP/SDA grantee. PEM, Item 550, p. 2.

Non-Group Members

Do not budget the income of a non-group member. See PEM, Item 212. PEM, Item 550, p. 2.

IPV, Employment Related Activity, FAP Trafficking, Parole or Probation Violation and Fugitive Felons

Budget **all earned and unearned income** of a person disqualified for:

- . Intentional Program Violation (IPV),
- . Non-cooperation with employment related activities,
- . FAP Trafficking,
- . Parole or Probation Violation, or
- . Fugitive Felons. PEM, Item 550, p. 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.

ALLOWABLE EXPENSES

Allow an expense if:

- . the service is provided by someone outside of the FAP group, and
- . someone in the FAP group has the responsibility to pay for the service in money, and
- . verification is provided, if required. PEM, Item 554, p. 1.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements. Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Example: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification to an eligible FAP group as a change. Issue a supplement for lost benefits **only** if:

- . the expense could **not** be verified within 30 days of the application, and

- . the local office was at fault. PEM, Item 554, p. 2.

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. PEM, Item 554, p. 9.

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

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are **not** allowed. PEM, Item 554, p. 9.

Property Taxes, Assessments and Insurance

Property taxes, state and local assessments and insurance on the structure are allowable expenses. Do **not** allow insurance costs for the contents of the structure, e.g. furniture, clothing and personal belongings.

Deduct the entire insurance charge for structure and contents when the amount for the structure cannot be determined separately.

Renter's insurance is **not** allowed. PEM, Item 554, p. 10.

Verification

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified.

Verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs. PEM, Item 554, p. 10.

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. PEM, Item 554, p. 11.

The claimant and her husband testified that they had received a notice terminating their MA coverage. Due to the conversion to the Bridges computer system and not having a computer in the hearing room, the department could not tell this Administrative Law Judge what, if any, MA program the claimant and her husband were active on. Thus this Administrative Law Judge requested the department to fax information showing what MA coverage the claimant and her husband have. The faxed information shows that the claimant and her husband are still active on MA, through the LIF (Low-Income Families) program. This would be the most beneficial program for the claimant and her husband to be active on. Thus, this issue appears to be resolved.

The claimant's other issue is the amount of her FAP allotment. The claimant has had several changes to her FAP budget. The claimant's husband quit a job in September, 2008. Because the claimant's husband was considered a mandatory work participant, he was removed from the FAP program group for work noncompliance when he quit the job. The claimant and

her husband testified that he had to quit the job because of health reasons. The claimant did turn in a doctor's statement in April, 2009, showing the claimant's husband was diagnosed with emphysema and interstitial changes. The department testified that the claimant's husband was placed back into the FAP group beginning May, 2009, based on the medical documentation that was provided by the claimant in April, 2009. Thus, the claimant is now receiving FAP benefits for all five group members.

The claimant's son that lives with her is 20 years old. He does not meet the policy requirement to disregard his income (under age 18, enrolled in high school, etc.), so the son's income must be included in the claimant's FAP budget. PEM 500. The department properly averaged out his income from the paycheck stubs provided and included the average amount as earned income.

The claimant also received UCB until the benefits were exhausted. Department policy requires the department to include UCB as unearned income. PEM 500. The department removed the UCB beginning in May, 2009, as the claimant had exhausted her UCB in April, 2009. The only unearned income that is currently included in the claimant's FAP budget is the FIP grant that her grandson receives (\$158.00). Since the grandchild is in the claimant's FAP group, the FIP grant amount is properly included as unearned income. PEM 500.

The department is properly budgeting the claimant's shelter expenses. The claimant receives a shelter expense of \$678.00 and the heating/utilities standard of \$550.00. The claimant and her husband brought some new documentation to the hearing regarding new shelter expense amounts. The claimant testified that this material had not been provided to the department prior to the hearing date, so the inclusion of these new expenses in the FAP budget would take effect for the month of July.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. The FAP program provides a deduction from earned income of 20% and a standard deduction from income of \$163.00 is allowed for each household. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income and benefit levels, in accordance with the federal regulations at 7 CFR 273.10.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department did properly budget the claimant's Food Assistance Program (FAP) case beginning in March, 2009, continuing through the present.
2. The department did properly provide the claimant and her husband with Medical Assistance (MA) coverage through the LIF program.

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: July 14, 2009

Date Mailed: July 15, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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