

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.: 2009-22219
Issue No.: 3022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 13, 2009
Wayne County DHS (58)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was conducted from Detroit, Michigan on August 13, 2009. The Claimant appeared and testified, along with his representative, [REDACTED]. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance ("FAP") benefits effective May 1, 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. The Claimant is a FAP recipient.
2. In or around March of 2009, the Department sent the Claimant his semi-annual review requesting verification of income and expenses.

3. The Claimant failed to submit the verifications and his FAP benefits were scheduled for closure.
4. The Claimant received the Notice of Case Action and on April 21, 2009, the Department received the Claimant's written request for hearing protesting the proposed negative action.
5. During this same time, the Claimant submitted proof of earnings and informed the Department that although he did not have a rental obligation, he was responsible for utilities. (Exhibit 2)
6. The Claimant received \$296.00 in gross earnings bi-weekly. (Exhibit 2)
7. The negative action was deleted and the Claimant's monthly FAP allotment was calculated as \$98.00. (Exhibit 1)
8. On April 30, 2009, the Department sent the Claimant an Eligibility Notice informing him that effective May 2009 his monthly FAP benefits were \$98.00. (Exhibit 3)

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The Department periodically re-evaluates cases to ensure continued eligibility for benefits. PAM 210 Clients must cooperate with the local office in determining initial and

ongoing eligibility to include the completion of the necessary forms. PAM 105 Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130

In determining eligibility, all countable earned and unearned income available to the client must be considered. PEM 500 The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500 A group's monthly benefits are based in part, on a prospective income determination. PEM 505 A standard monthly amount must be determined for each income source used in the budget. PEM 505 Bi-weekly amounts are converted by multiplying the amount by 2.15. PEM 505 In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. PEM 554

A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. PAM 130 Reducing a FAP group's benefit amount at redetermination is treated as a positive action since the change affects the new certification, not the current benefit period. PAM 220

In this case, the Department calculated the Claimant's FAP budget as part of the semi-annual recertification. The un rebutted testimony was that the Claimant informed the Department (and provided verification) that although he did not have a rental obligation, he was responsible for utilities. The Department used the Claimant's actual gross earnings and did not convert it to a standard monthly amount nor did it consider the Claimant's utilities expense. Ultimately, the Department established it acted in accordance with Department policy when it sent an Eligibility Notice to the Claimant regarding his new benefit amount, however, the Department's FAP

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cc:

