

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: 2009-23765
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 30, 2009
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 30, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits claimant was entitled to receive in March and April, 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 was a FAP recipient when she reported on August 21, 2008, that her daughter was now working and will average about 20 hours per week at \$7.40 per hour. (Department's Exhibit 17).

2. Department then computed a new FAP budget counting claimant's RSDI and her daughters starting income of \$636.40 gross (20 hours per week at \$7.40 per hour). This budget resulted in a FAP benefit allowance of \$16 per month. (Department's Exhibits 18 and 19).

3. Claimant also provided a copy of her daughter's first pay check showing she worked 29.34 hours and indicated that this was because of training, but that the daughter will be working 20-25 hours a week. (Department's Exhibit 16).

4. On January 14, 2009, Semi-Annual Contact Report was received from the claimant, but there was no signature on it, so it was mailed back to her. Signed Report was received by the department on February 10, 2009, with 3 pay stubs for claimant's daughter. (Department's Exhibits 9-13).

5. Pay stub received on January 9, 2009, showed that claimant's daughter worked 34.32 hours one week and 27.70 the next. Claimant wrote an explanation that this was during holiday season, and that store hours have since gone back to "normal hours of 25-30". Two other pay stubs for December 12, 2008 and December 26, 2008 showed weekly hours of 32.35, 33.55, 26.79 and 29.

6. Department computed a new FAP budget on February 18, 2009, disregarding the pay check claimant said was not typical, and using two other pay checks from past 30 days to prospect income. This budget resulted in a FAP allotment of \$14. (Department's Exhibits 14 and 15).

7. Claimant wrote a letter on March 31, 2009, received by the department on April 1, 2009, saying that she is providing her daughter's pay stubs for 6 weeks showing the decrease in her pay and pointing out one pay stub for 21.25 hours. (Department's Exhibit 5).

8. Pay stubs of February 20, 2009, March 6, 2009 and March 20, 2009 showed weekly hours of 16.28, 16.67, 13.56, 21.25, 17.73 and 4.37 hours. (Department's Exhibits 6-8).

9. Department did not supplement April, 2009 FAP benefits as information about claimant's daughter's income was not received until April. On April 23, 2009, department received information that claimant's daughter was no longer employed. Department established good cause and did not sanction claimant's FAP benefits for this job loss.

10. Department computed new budgets and increased claimant's FAP benefits for June, 2009, and also supplemented her May, 2009 benefits.

11. Claimant requested a hearing on May 14, 2009, contesting the amount of FAP benefits she received for March and April, 2009. With her hearing request claimant provided her daughter's pay stubs starting with January 9, 2009, one where hours of work were 27.70 and 34.32. January 23, 2009, pay stub shows hours of 27.80 and 34.98; February 6, 2009 pay stub shows hours of 22.67 and 26.17; April 3, 2009, pay stub shows hours of 17.19 and 21.95, and April 17, 2009, pay stub, last one received, shows 12.62 hours.

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).

Claimant is contesting the amount of FAP benefits she received for March and April, 2009, and states that she reported that her daughter's income had dropped in February, 2009. Department had budgeted employment income of claimant's daughter at 20 hours per week and \$7.40 per hour, since the job started in August, 2008. It is clear from the pay stubs provided by the claimant that her daughter rarely worked only 20 hours per week, and almost always worked over 20 hours per week up until sometimes in February, 2009. For example, claimant's daughter worked 29.34 hours on her first pay check of August 22, 2008. December, 2008 pay checks are for 32.35, 33.55, 26.79 and 29.00 hours per week. Furthermore, pay stubs show 27.70 and 34.32 hours per week on January 9, 2009, pay check, 27.80 and 34.98 hours per week on January 23, 2009, pay check, and 26.17 and 22.67 hours per week on February 6, 2009 pay check. Claimant, if anything, had therefore been overissued FAP benefits for several months, until March, 2009, as her FAP benefits were based on her daughter working only 20 hours per week.

Departmental policy requires the department to prospect income using a "best estimate" of income expected to be received during the month. PEM/BEM 505. Department did so on claimant's case for many months, thereby using considerably less income than actually received by her daughter to compute her FAP benefits.

Claimant was asked what her daughter's employer would have said about her daughter's work hours if they were asked to provide written verification of expected work hours in February, 2009, and she states it would be 15-20 hours per week. Claimant however wrote on her Semi-Annual report in February, 2009 that her daughter's employment hours would be back to normal of 25-30 hour per week. It was not until April 1, 2009, that the claimant informed the department of considerable decrease in her daughter's income and provided verification of such

decrease. Departmental policy states that income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. On April 1, 2009, when the claimant reported and verified decrease in income, department could not affect April, 2009 FAP benefits. Department had 10 days to process this change to affect May, 2009 FAP benefits, and those were increased for that month.

In conclusion, no error can be found in department's processing of claimant's FAP benefits for March and April, 2009, as such were based on the information provided by the claimant.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed the amount of FAP benefits the claimant was entitled to receive for March and April, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 2, 2009

Date Mailed: July 7, 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.

IR [REDACTED]

cc:

[REDACTED]