

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: 2009-24261

Issue No: 3002; 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 16, 2009

Genesee 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 16, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute in May, 2009 the amount of Food Assistance Program (FAP) benefits claimant was entitled to receive, resulting in reduction of such benefits?

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 in May, 2009 when her case came due for review.
2. Claimant provided verification of her income and rental expenses. Department then computed claimant's FAP budget using Social Security benefits and child support income based on the average of child support received by the claimant for the preceding 3 months.

3. Department's budget resulted in reductions of claimant's FAP benefits from \$535 to \$192 per month effective May 27, 2009. Claimant requested a hearing on May 22, 2009 and department deleted FAP negative action pending the outcome of this hearing.

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's 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.

SUPPLEMENTAL SECURITY INCOME (SSI)

All Programs

Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount paid by the state and the payment process varies by living arrangement. See PEM 660. For SSI recipients in independent living or household of another, refer to "Current SSA-Issued SSI", "Retroactive SSA-Issued SSI" and "State SSI Payments" below. For SSI recipients in other living arrangements, refer to just "Current SSA-Issued SSI" and "Retroactive SSA-Issued SSI". PEM, Item 500, p. 31.

Current SSA-Issued SSI

SDA, CDC, AMP and FAP Only

Count the gross amount of current SSA-issued SSI as unearned income. Include SSI withheld to recoup overpayments due to an IPV as defined below.

IPV means there was a finding of fraud or an agreement to repay in lieu of prosecution. Court recouped SSI only if IPV information is volunteered by the SSI recipient or other reliable source. You need NOT initiate any contacts.

Exception: The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.

Note: Exclude SSI income received by an AMP client's spouse. PEM, Item 500, p. 31.

Claimant's daughter, part of her FAP group, receives SSI payments. Claimant does not dispute this but states that \$30 per month is taken out of these funds as a recoupment of previous overpayment. Department's policy further states:

GARNISHMENT OR OTHER WITHHOLDING

All Programs

Income includes amounts withheld from income which are:

- . voluntary, or
- . to repay a debt, or
- . to meet a legal obligation. PEM, Item 500, p. 2.

Department is therefore correctly budgeting the total amount of SSI received by claimant's daughter.

Claimant also receives child support for two of her children. Department used computer information regarding child support payments received by the claimant in the 3 months preceding May, 2009, in accordance with the following policy:

CHILD SUPPORT

Definitions

All Programs

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.

Child support is income to the child for whom the support is paid.

Court-ordered child support may be either certified or direct. PEM, Item 500, p. 9.

BUDGETING INCOME

Use the following guidelines to budget income.

Child Support Income

Past 3 Months

- . Use the average of child support payments received in the past 3 calendar months unless changes are expected. Include the current month if all payments expected for the month

have been received. Do **not** include amounts that are unusual and not expected to continue.

Note: The 3 month period used can begin up to 3 months before the interview date or the date the information was requested.

If payment for the past 3 months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these 3 months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past 3 months to project. **Document the discussion with the client and how you decided on the amount to budget.** PEM, Item 505, pp. 5-6.

Claimant does not dispute the amount of child support department used in their calculations, but states that she had not received any child support yet for the month of June, 2009. Claimant was advised to contact her caseworker if she indeed ends up not receiving any child support, as another calculation of her FAP budget may be in order at that time to take into account decrease in such income.

Claimant also does not dispute the shelter expenses department used in the FAP budget. These expenses are based on the lease provided by the claimant that specifies what her monthly rent is and what kind of heat/utility expenses she has.

In conclusion, no error can be found in department's computation of claimant's FAP benefit amount in May, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed in May, 2009 the amount of FAP benefits the claimant was entitled to receive, resulting in reduction of such benefits.

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: June 23, 2009

Date Mailed: June 23, 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 

cc: 