

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: 2009-24631
Issue No: 3002, 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 23, 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 July 23, 2009. The Claimant personally appeared and testified. A family independence manager represented the Department.

ISSUES

Did the Department properly compute the Claimant's Food Assistance Program benefits for July 2009 and did the Department properly find Claimant ineligible for Adult Medical Program (AMP) benefits for July 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 one. Claimant last received about \$165 in monthly FAP benefits prior to requesting this hearing. Claimant also applied for AMP benefits.
- (2) Claimant began receiving unemployment compensation benefits in January 2009. Claimant received \$275 in weekly unemployment benefits that were paid bi-weekly in the amount of \$550.
- (3) As a result, the Department counted a total monthly amount of unemployment income of \$1,100. The Department then included his monthly unemployment income in his July 2009 FAP budget. (Exhibit 5).
- (4) As a result of counting Claimant's unemployment benefits, Claimant's monthly FAP benefit allotment was reduced to \$19. (Exhibit 5).
- (5) The Department also included Claimant's monthly unearned unemployment income when calculating her AMP budget for July 2009. As a result of her \$1,100 monthly unearned income, Claimant was over the income limit for AMP. (Exhibit 6).
- (6) Claimant disagreed on the grounds that her income is limited to unemployment compensation.
- (7) The Department received Claimant's hearing request on May 26, 2009. (Exhibit 1).

CONCLUSIONS OF LAW

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, et

seq.. Department policies are contained 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 (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.

FTW Only

Exclude as income.

Exception: Sometimes benefits are reduced because the person has earnings. In such cases, the reduced amount is the gross amount. See “[Returned Benefits](#)” about excluding amounts listed under recoupment on the Unemployment Insurance Agency payment stub. (PEM 500, p. 36)

Standard Monthly Amount

A standard monthly amount must be determined for each income source used in the budget.

Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- Multiply amounts received every two weeks by 2.15.
- Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

Exception: Do **not** convert income for the month income starts or stops if a full month’s income is not expected in that month. Use actual income received or income expected to be received in these months. (PEM 505, p.7)

Under PEM 500, all income that is “NOT specifically excluded” must be considered in calculating FAP benefits. (PEM 500, pg.1). Unemployment compensation benefits are not excluded income. Moreover, the Department properly converted her bi-weekly unemployment income into a monthly income amount under PEM 505. Consequently, it is found that the Department properly calculated Claimant’s July 2009 FAP budget. In addition, the Department properly counted her unemployment income when calculating her AMP budget for July 2009.

Her monthly unemployment income of \$1,100 exceeded the AMP income limit of \$316. The undersigned has reviewed the July 2009 FAP and AMP budgets and finds them to be correct.

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 benefits for July 2009 and properly determined that Claimant is not eligible for AMP benefits effective July 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: 08/24/09

Date Mailed: 08/24/09

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 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.

TW/dj

cc:

[REDACTED]