

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: 2009-26090

Issue No: 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 16, 2009

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 16, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly compute Claimant's financial eligibility for Food Assistance Program (FAP) 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 an ongoing recipient of Food Assistance Program (FAP) benefits. Claimant's benefit group consists of herself and her two children who reside with her.

(2) On May 6, 2009, Claimant eligibility for Food Assistance Program (FAP) was re-determined. Claimant's disability benefits and Social Security Administration benefits for the

two children were included in the financial eligibility budget. Claimant was determined to have excess income and not eligible for Food Assistance Program (FAP) benefits.

(3) On May 29, 2009, Claimant was sent notice her Food Assistance Program (FAP) case would close due to excess income.

(4) On June 3, 2009, Claimant submitted a request for 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).

In this case, Claimant asserts that her children reside with her but that their Social Security Administration benefits go to their father. Claimant asserts the children's Social Security Administration benefits should not be counted for her eligibility because she does not get the money. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 500 INCOME

DEPARTMENT POLICY

All Programs

This item discusses income for:

- Family Independence Program (FIP).
- Refugee Assistance Program (RAP) which, if policy differs is divided into:

- Refugee Assistance Program Cash (RAPC).
 - Refugee Assistance Program Medical (RAPM).
 - State Disability Assistance (SDA).
 - Child Development and Care (CDC).
- Note:** Applies to all CDC income eligible groups.
- Medicaid (MA) which, if policy differs, is divided into:
 - FIP-related MA.
 - SSI-related MA.
 - Specific MA categories.
 - Adult Medical Program (AMP).
 - TMA-Plus (TMAP).
 - Food Assistance Program (FAP).

The phrase All Programs in this item means all the programs listed above.

The group composition and program budgeting items specify whose income to count. The program budgeting items also contain programspecific income deductions and disregards.

Income means benefits or payments received by an individual which is measured in money. It includes money an individual owns even if NOT paid directly such as 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.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded.

PAYMENT TO REPRESENTATIVE

All Programs

Income paid to a person acting as a representative for another person is NOT the representative's income. The income is the other person's income. Common representatives are:

- Legal guardians (see BPG Glossary).
- Court-appointed conservators.
- Minor children's parents.
- Representative payees.

In this case, the Social Security Administration benefits for the two children belong to the children regardless of who actually receives the payment. The Department policy above is clear and the children's Social Security Administration benefits must be included in the financial eligibility budget for the benefit group they are a part of.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly computed Claimant's financial eligibility for Food Assistance Program (FAP) benefits.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 28, 2009

Date Mailed: July 29, 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.

GFH [REDACTED]

cc: [REDACTED]