

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: 2009-26434
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 22, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 July 22, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning in June, 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 receives SSI in the amount of \$137.60 per month, plus a state supplement of \$14.00. (Department Exhibit 3 – 4).
2. The claimant receives unemployment compensation benefits (UCB) in the amount of \$234.00 biweekly. (Department Exhibit 2).

3. The department ran a budget for the claimant effective July, 2009, which included unearned income of \$1143.00 (\$489.00 RSDI; \$151.60 SSI; \$503.10 UCB).

(Department Exhibit 1).

4. The claimant was not allowed a shelter expense as it was unable to be verified. The claimant was given a telephone expense. (Department Exhibit 1).

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 policy states:

SSI BENEFITS

Supplemental Security Income (SSI) is a cash benefit to needy persons who are aged (at least 65), blind or disabled. It is a federal program administered by the Social Security Administration (SSA). States are allowed the option to supplement the federal benefit with state funds. In Michigan, SSI benefits include a basic federal benefit and an additional amount paid with State funds. The amount of the state benefit varies by living arrangement. PEM, Item 660, p. 1.

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is available to retired and disabled persons, their dependents, and survivors of deceased workers.

Count the gross benefit amount as unearned income. PEM, Item 500, p. 29.

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

FIP, MA and TMAP

Exclude the amount of current SSA-issued SSI as income.

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.

Retroactive SSA-Issued SSI

All Programs

Retroactive SSI benefits may be paid as a one-time payment or in installments over several months. SSA determines how the retroactive benefits will be paid.

FIP, SDA, CDC, AMP and FAP Only

Retroactive SSI benefits are considered assets whether paid as a one-time payment or as installment payments.

A person may receive a payment that includes a portion intended as current benefits as well as a portion intended as retroactive benefits. The portion intended as current benefits is income. PEM, Item 500, p. 32.

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency 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. PEM, Item 500, p. 34.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. The FAP program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income of \$135 is allowed for each household. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions

have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

The claimant testified that he believes his FAP budget is incorrect. The claimant indicates that he pays rent in the amount of \$500.00 per month, which wasn't budgeted into the July, 2009 budget. The claimant's case had recently changed counties, so the previous budget had been completed by the previous county. The caseworker had noted that the rent expense could not be verified. Thus, it was not included in the budget at that time. The current caseworker testified that she would go through the verification process for the rent expense again and, if verified properly, would add the expense into the current budget.

However, when going through the documentation in this case, this Administrative Law Judge did notice what appears to be an error in the July, 2009 budget. The department properly budgeted the claimant's SSI income and state supplement and properly budgeted his UCB income. However, it appears that the department mistook the claimant's UCB income reported on the SOLQ report as RSDI income. However, the income type on the SOLQ report is coded as "S", which is other income, not RSDI, which would be marked as RSDI and coded as "A". This other income appears to be the claimant's UCB, which was already included in the claimant's budget under UCB. Thus, it does appear that the UCB income was counted twice and the \$489.00 should be removed as it isn't RSDI, but UCB, which is already included in the budget.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly budgeted the claimant's FAP benefits beginning July, 2009.

Accordingly, the department is REVERSED. The department shall:

1. Rebudget the claimant's FAP budget beginning July, 2009 to reflect that the claimant is only receiving SSI and UCB and remove the RSDI income.
2. Budget in the claimant's rent expense if or when properly verified.

SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 25, 2009

Date Mailed: August 26, 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.

SLK [REDACTED]

cc: [REDACTED]