

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: 2009-32966
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 15, 2009
Kalamazoo 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 September 15, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Food Assistance Program (FAP) application due to excess income in August, 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 applied for FAP benefits on August 3, 2009.
(Department Exhibit 17 – 32).
2. The claimant receives Supplemental Security Income (SSI) in the amount of \$674.00 per month, plus a state supplement of \$14.00. (Department Exhibit 16).
3. The claimant's son [REDACTED] receives SSI in the amount of \$674.00 per month, plus a state supplement of \$14.00. (Department Exhibit 14).

4. The claimant's other son, [REDACTED] receives SSI in the amount of \$674.00 per month, plus a state supplement of \$14.00. The Social Security Administration is currently taking out \$10.00 from every month's payment to [REDACTED] for an overpayment.

(Department Exhibit 15).

5. This amounts to a total monthly unearned income of \$2064.00.

(Department Exhibit 3).

6. The claimant has rent expenses of \$550.00 per month and was given the standard heat/utility expense of \$550.00. (Department Exhibits 2, 13).

7. When the department ran the budget for the claimant, the claimant had excess income to receive FAP benefits. (Department Exhibit 3 – 5).

8. The claimant was mailed a Notice of Case Action informing her that her FAP application was denied due to excess income on August 3, 2009. (Department Exhibits 8 – 12).

9. The claimant requested a hearing on August 10, 2009.

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.

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 she can't afford food for the entire month without any assistance. This Administrative Law Judge informed the claimant that the department was required to follow a formula set by the federal government and that they can not deviate from that formula. The claimant testified that the amounts of SSI income and her shelter expenses were correctly included by the department.

The claimant has a total monthly unearned income of \$2064.00. Once the deductions are taken, the claimant has a net monthly income of \$1793.00. The monthly net income limit to receive FAP benefits for a group of three is \$1467.00. RFT 250. Thus, the claimant does have excess income to be eligible for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's FAP application in August, 2009 due to excess income.

Accordingly, the department's determination is UPHELD. SO ORDERED.

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

Date Signed: September 21, 2009

Date Mailed: September 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.

SLK [REDACTED]

cc:

[REDACTED]