

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: 2009-34204
Issue No: 2026; 3022; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 29, 2009
Grand Traverse 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 29, 2009. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly place the claimant on a Medical Assistance (MA) deductible case effective June 1, 2009?
2. Did the department properly deny the claimant's Child Development and Care application due to excess income in July, 2009?
3. Did the department properly budget the claimant's Food Assistance Program (FAP) case beginning September 1, 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. Effective June 1, 2009, the claimant was determined to have excess income for a regular MA case and was placed on a deductible case with a \$133.00 monthly deductible. The claimant was mailed notice of this on May 4, 2009. (Department Exhibit 1, pages 1 – 3, Exhibit 4).

2. An Unemployment Compensation Benefit (UCB) report ran on May 4, 2009, showed the claimant had begun receiving UCB on March 29, 2009 in the amount of \$490 biweekly. (Department Exhibit 2).

3. The claimant was receiving child support for her daughter [REDACTED] in the amount of \$417 monthly, until July 1, 2009, as [REDACTED] had moved from the claimant's home. (Department Exhibit 3, 7).

4. The claimant submitted a Verification of Employment on July 2, 2009 that indicated the claimant had begun a job on June 26, 2009, working 40 hours per week at \$8.89 per hour. (Department Exhibit 11)

5. On August 6, 2009, the claimant submitted paycheck stubs dated July 11 and July 25, 2009, from her employment with [REDACTED]. (Department Exhibit 5)

6. On July 2, 2009, the claimant applied for Child Development and Care (CDC) benefits. The claimant was denied due to excess income. (Department Exhibit 10).

7. Based on the income used for the CDC eligibility, the claimant's FAP benefits also decreased. (Department Exhibit 10)

8. The claimant submitted a hearing request on CDC and FAP on August 25, 2009.

9. The claimant submitted a hearing request on her MA on August 26, 2009.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found 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 (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).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department 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.

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.

All Programs

Wages are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

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.

PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

DEPARTMENT PHILOSOPHY

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. PEM, Item 505, p. 1.

DEPARTMENT POLICY

FIP, SDA, CDC and FAP

A group's financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see PEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). PEM, Item 505, p. 1.

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.**

Starting Income

For starting income, use the best available information to prospect income for the benefit month. This may be based on expected work hours times the rate of pay. Or if payments from the new source have been received, use them in the budget for future months if they accurately reflect future income.

If the payment is not hourly, use information from the source (e.g., from the employer on the DHS-38), along with information from the client, and/or any checks the client may already have received to determine the prospective amount.

Standard Monthly Amount

Stable and Fluctuating Income

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

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, Item 505, p. 7.

WHEN TO COMPLETE A BUDGET

FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- . the department is made aware of or the client reports a change in income that will affect eligibility or benefit level,
or

- . a reported change results in the need to convert income to or from a standard monthly amount. PEM, Item 505, p. 8.

At the outset of this hearing, the department indicated that they had erred in the MA determination in June, 2009. The claimant had reported an April 1, 2009, job loss and the department was not sure when it was reported (as it was not date stamped). So, the department agreed to re-budget the claimant's MA case (which was a deductible effective June 1, 2009), removing the earned income for June. The claimant did not begin her other job until June 26, 2009, so no earned income should have been budgeted for the month of June, 2009. The department did properly budget the claimant's MA case after this, as they used the income from the new job and the claimant's UCB and child support income, until these two sources of income stopped.

There were a number of changes to the claimant's assistance cases during this time period, which caused several changes in the claimant's benefit amounts. The claimant stopped working on April 1, 2009 and then began working a new job on June 26, 2009. The claimant had her child support income stop because her daughter moved out of the home in June, 2009 and was removed from the group. The claimant's son also left for college in September, causing him to be removed from the claimant's group. The claimant received UCB benefits until early August, 2009, when they stopped. This caused a number of changes to the claimant's benefits.

The claimant applied for CDC benefits on July 2, 2009. At that time, the claimant was receiving employment income and unemployment income. Thus, when the department included each of these sources of income as department policy directs them, the claimant was over the income limit for CDC benefits. PEM 505, RFT 270. It is noted that the claimant's UCB stopped in early August, 2009 and she later provided paycheck stubs that reflect varying hours, which may have changed her eligibility for CDC benefits.

The claimant's FAP benefits have also changed several times. The notice the claimant received that had been mailed on July 31, 2009 indicated that her benefits were going to decrease to \$2.00 monthly beginning September, 2009. However, after the claimant's UCB and child support was removed from the income, the claimant was budgeted to receive \$121 for September and then on September 25, 2009, the claimant's FAP benefits decreased to \$33 due to the claimant's son, [REDACTED], being removed from the group because he left the home to attend college. Therefore, it appears that the changes have been accurately reflected by the department's budgets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department agrees that the MA was not budgeted correctly for June, 2009 and will re-budget the case, removing the earned income from the income totals, as the claimant had notified the department that she was no longer working.
2. The department properly denied the claimant's CDC application for excess income in July, 2009.
3. The department properly budgeted the claimant's FAP case beginning September 1, 2009.

Accordingly, the department's actions are UPHELD in part and REVERSED in part. The department shall:

1. Re-budget the claimant's MA case for June, 2009 and remove the earned income as agreed upon in the hearing.

SO ORDERED.

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

Date Signed: January 4, 2010

Date Mailed: January 19, 2010

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.

SLK [REDACTED]

cc: [REDACTED]