

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: 2009-36889
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 22, 2009
Gratiot 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 October 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 October, 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's case was due for a redetermination during the month of September, 2009. The claimant was mailed a Redetermination Notice (DHS-1010) to complete and return to the department. The claimant did return the Redetermination form and indicated that her son was no longer living in the home. (Department Exhibit 9 – 12).

2. The claimant's husband receives \$1218.40 monthly in RSDI benefits.

(Department Exhibit 25).

3. The claimant's husband also receives two monthly payments for pensions. The first is for \$235.42 and the second is for \$228.54. (Department Exhibit 33 – 34).

4. This results in \$1682.00 of unearned income being included in the claimant's FAP budget. (Department Exhibit 6).

5. The claimant is given housing expenses of \$443.50 and the standard utility expense of \$555.00 for a group size of two (the claimant's son moved out). (Department Exhibit 8 – 9).

6. This resulted in a monthly FAP benefit amount of \$16.00. (Department Exhibit 6 – 7).

7. The claimant submitted a hearing request on September 21, 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:

SDV GROUP

An SDV FAP group is one which has an SDV member. PEM, Item 550, p. 1.

Senior

A person at least 60 years old. PEM, Item 550, p. 1. 7 CFR 271.2.

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.

RETIREMENT INCOME – OTHER

All Programs

Refer to the specific sections in this item for policies regarding:

- . Railroad Retirement Board benefits
- . Retirement, Survivors and Disability Insurance (RSDI)
- . U.S. Civil Service and Federal Employee Retirement System

Other retirement income includes annuities, private pensions, military pensions, and state and local government pensions.

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

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are **not** allowed. PEM, Item 554, p. 9.

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. PEM, Item 554, p. 11.

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 \$132 is allowed. 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.

In this case, the Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at

Program Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$16.00.

However, it is noted that the claimant's FAP case qualifies as a Senior, Disabled or Veteran (SDV) household. This allows the claimant and her husband to include medical expenses in their FAP budget. The department does show that the claimant and her husband are paying medical expenses for their Medicare coverage (see Exhibit 36). The claimant was advised that any qualifying out-of-pocket medical expenses could be included in the FAP budget, which may result in a higher amount of monthly FAP benefits. As the department had not included the medical amounts the claimant is paying, the FAP budget is in error and must be recalculated back to October 1, 2009 to include the medical deduction, along with any other qualifying medical expenses that the claimant provides documentation to the department to support.

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 June, 2009.

Accordingly, the department is REVERSED. The department shall:

1. Rebudget the claimant's FAP budget back to October 1, 2009 to accurately reflect the medical deductions the claimant has.
2. Issue the claimant any retroactive FAP benefits that she is eligible for after rebudgeting the FAP with the medical expenses.

SO ORDERED.

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

Date Signed: November 16, 2009

Date Mailed: November 16, 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 

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