

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: 2009-4603
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 29, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Kalamazoo, Michigan on January 29, 2009.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance benefits (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant is a FAP recipient.
2. On October 9, 2008, the Department completed a review FAP budget which resulted in a FAP reduction from [REDACTED]. The change was due to an "educational benefit" of [REDACTED] that Claimant receives annually as part of a buyout from her previous employer which had not been previously budgeted. (Exhibits 6, 7, 9, 10, 11, 12, 13, 14)

3. The Department averaged the amount over a 12 month period.

4. On October 28, 2008, Claimant filed a hearing request regarding the computation of her FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

For FAP purposes, all earned and unearned income available to the Claimant is countable. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Unearned income means ALL income that is not earned and includes RSDI and SSI. PEM 500

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (FAP – 10 calendar days). PEM 505

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. The change should not be processed for a month earlier than the month the change occurred. A supplement may be necessary in some cases. If verification is required or deemed necessary, the household must be allowed 10 days from the date the change is reported or the date verification is requested. The change must still affect the correct issuance

month i.e., the month after the month in which the 10th day after the change is reported. PEM 505

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income for future benefits. In some cases, the department's estimate of the client's future monthly income will not equal the actual income received however, as long as the Department uses the best available information to determine future income, and there is no concealed information or mathematical error, the Department's estimate will not be determined inaccurate. All income is converted to a monthly amount. PEM 505

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500

Contractual/Single Payment Income is income that is received in one month that is intended to cover more than one month. When income is received in one month, but it is intended to cover several months (e.g., contractual income, farm income, etc.), a monthly average should be established if the benefit amount is one of the months covered by the income. The monthly average should be established by dividing the income by the number of months it covers. This amount is considered available in each of the months covered by the income. Overlapping months should not be used when averaging. PEM 505

In the instant case, I find that the Department followed policy in utilizing a monthly average from the annual benefit received by Claimant to compute Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy.

Accordingly, the Department's FAP eligibility determination is **AFFIRMED**.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 5, 2009

Date Mailed: February 19, 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.

SMB

cc:

