

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████,

Claimant,

Reg No: 2009-4987

Issue No: 3002

Case No: ██████████

Load No: ██████████

Hearing Date:

January 22, 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 22, 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. Claimant applied for FAP benefits on or about October 28, 2008.

2. The Department ran a FAP budget on November 26, 2008 which resulted in a monthly benefit of [REDACTED]. (Exhibit 1)

3. The Department testified that an error was made by the Department in that it did not use a self-employment budget. As a result, the Department ran a corrected budget on [REDACTED] [REDACTED] which resulted in a monthly benefit of [REDACTED] and a supplement to Claimant for [REDACTED]. (Exhibit 2)

4. The Department also ran another budget on [REDACTED] for [REDACTED] as a result of a decrease in Claimant's income. The result was a monthly benefit of [REDACTED]. (Exhibit 3)

5. Claimant filed a hearing request protesting the amount 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.

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.

In the instant case, the Department made an error in the calculation of Claimant's benefits for the months of [REDACTED] through [REDACTED]. It also ran another budget for [REDACTED] forward based on Claimant's decrease in income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not act in accordance with policy in computing benefits for the months of [REDACTED] through [REDACTED].

Accordingly, the Department's FAP eligibility determination is REVERSED. The Department shall supplement Claimant for the lost benefits she was otherwise entitled to receive for the months listed above.

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

Date Signed: January 28, 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:

[REDACTED]