

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: 2009-6128
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 5, 2009
Macomb 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 February 5, 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 is a FAP recipient.
2. On September 13, 2008, the Department completed a new FAP budget for benefit year October 1, 2008 through September 30, 2009. The FAP budget was based on a group size of 1 and the income and expenses of Claimant. The only change was that Claimant no longer

received the heat/utility deduction. The new FAP allotment was [REDACTED]. Claimant had previously received [REDACTED]/mo. (Exhibits 3 - 8)

3. The Department sent Claimant an Eligibility Notice which explained that her monthly FAP allotment would be [REDACTED]/mo. effective October 2008. This amount increased to [REDACTED] with the State's annual increase(s) effective October 1, 2008. (Exhibits 1, 2)

4. On September 19, 2008, Claimant requested a hearing regarding the reduction of her FAP allotment.

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 used the correct income and expense figures and followed policy in completing the new FAP budget.

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 in computing Claimant's FAP benefits.

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 10, 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:

