

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: 2010-1464  
Issue No: 3002; 3003  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
November 4, 2009  
Midland County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 November 4, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits that the claimant was entitled to receive from July through 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. Claimant was a FAP recipient when her case came due to semi-annual review. Claimant submitted review information to the department on May 18, 2009.
2. Claimant's caseworker completed the FAP budget on the new DHS computer system, Bridges, but it was apparently not accepted by the system. On September 16, 2009

computer problems were corrected and claimant was issued FAP benefits retroactively to July 1, 2009, as her prior benefits expired at the end of June, 2009 due to said computer problems.

3. Claimant was notified that she was to receive \$16 per month in FAP benefits and requested a hearing on September 28, 2009.

4. On October 7, 2009, claimant's caseworker, while preparing documentation for the hearing, discovered that claimant's pay checks from June, July and August, 2009 were not correctly recorded.

5. Claimant's FAP budget was then corrected resulting in increase from previously determined \$16 monthly allowance to \$38 per month.

#### 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).

Claimant's position is that her income fluctuates and that some months she receives a lot less income than in other months, but due to FAP budgeting she also gets smaller amount of benefits for the same month her income decreases. Departmental policy states:

#### **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.

## **DEFINITIONS**

**Benefit month:** The month an assistance benefit payment covers. For CDC, benefit month is the month in which the pay period ends. PEM, Item 505, p. 1.

**Available income:** Income actually received or reasonably anticipated. Reasonably anticipated means that the amount of income can be estimated and the date of receipt is known. Available income includes garnisheed amounts and income received jointly. See PEM 500. PEM, Item 505, p. 1.

**Stable income:** Income received on a regular schedule that does not vary from check to check based on pay schedules or hours worked. Examples: a job in which the paycheck amounts don't vary and are paid on a regular schedule; or RSDI or SSI. PEM, Item 505, p. 1.

**Fluctuating income:** Income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. PEM, Item 505, p. 1.

## **DETERMINING BUDGETABLE INCOME**

### **FIP, SDA, CDC, FAP**

Determine budgetable income using countable, available income for the benefit month being processed. PEM, Item 505, p. 2.

### **Current and Future Months**

Prospect income using a "best estimate" of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. PEM, Item 505, p. 2.

To prospect income, you will need to know:

- . the type of income and the frequency it is received (e.g., weekly),
- . the day(s) of the week paid,
- . the date(s) paid, and
- . the gross income amount received or expected to be received on each pay date. PEM, Item 505, p. 2.

### **Non-Child Support Income**

#### **Using Past Income**

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

**Note:** The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

**Discard** a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, if:
  - .. the past 30 days is not a good indicator of future income, and
  - .. the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

**Note:** The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. PEM, Item 505, pp. 5-6.

#### Change in Amount

When the income amount changes, adjust the amount(s) being budgeted for future pay periods.

For earned income:

- . If the rate of pay changes, but hours are expected to remain the same, use the past hours worked times the new rate of pay to determine the amount to budget for future pay periods.
- . If there is a change in expected hours, but no change in the rate of pay, use the expected hours times the rate of pay to determine the amount to budget per pay period.

If payments in the new amount have been received and they are accurate reflections of the future income, use them in the budget for future months.

For changes in self-employment income, determine the monthly gross income to budget based on discussion with the client of what he/ she expects to receive on average per month. PEM, Item 505, p. 6.

Claimant understands that her caseworker must determine how to budget her employment income and because it fluctuates an average of past income must be used. Claimant also indicates that her FAP budget was corrected and she did receive FAP supplement for the error made. Claimant testified that her income is expected to decrease for this month and possibly after this month. Claimant will be given a verification of employment form for her employer to complete indicating the number of hours she is expected to work in the coming months. If this form shows that the claimant's income is indeed expected to decrease, the department will compute a new FAP budget to reflect such a decrease.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly computed the amount of FAP benefits claimant was entitled to receive from July to October, 2009.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/S/ \_\_\_\_\_  
Ivona Rairigh  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: November 5, 2009

Date Mailed: November 6, 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.

2010-1464/IR

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.

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