

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: 2010-4076
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 24, 2009
St. Clair 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 24, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly compute the amount of Food Assistance Program (FAP) benefits the claimant was entitled to receive, resulting in proposed decrease in such benefits for 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 the department instituted a new computer system, Bridges. Bridges in error counted claimant's household income as zero from the date the conversion to system took place through September, 2009.

2. Bridges error was discovered at semi-annual review of claimant's case, at which time a new FAP budget was completed using claimant's SSI of \$674 per month, her daughter's RSDI of \$336 per month, and her other daughter's earned income based on average of \$1,110 per month.

3. Department also allowed as claimant's expenses \$750 per month in rent and \$555 standard utility allowance in the FAP budget.

4. Department's FAP budget resulted in decrease in claimant's FAP amount, from \$516 to \$116 per month, effective October 1, 2009. Claimant requested a hearing on September 30, 2009 and department deleted FAP decrease pending the outcome of this hearing.

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).

Departmental policy states:

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount. BEM, Item 500, p. 1.

Wages

All Programs

Wages are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

Exception: Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

BEM, Item 500, p. 15.

SDA, CDC, AMP and FAP Only

Count the gross amount of current SSA-issued SSI as unearned income.
BEM 500.

**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. BEM,
Item 500, p. 29.

Claimant receives SSI. One of claimant's daughters receives RSDI, and her other daughter had employment income. According to policy cited above, all of these types of income must be budgeted when determining the amount of FAP benefits claimant is entitled to receive. While it is true that the claimant received several hundred dollars worth of FAP benefits for a number of months that she was not entitled to receive, this was a Bridges error that cannot be continued and that had to be corrected by the department once it was discovered.

Claimant testified that her daughter has now been fired from her job at [REDACTED] last week because she could not lift heavy things. Departmental staff present at the hearing will give the claimant appropriate forms to be completed by her daughter's employer to evaluate further action to be taken on claimant's FAP case (i.e. possible removal of employment income after evaluation of the reason for job termination). Claimant also stated that the new FAP amount is not enough for food as she is a diabetic and has special nutritional needs. Unfortunately federal regulations governing the FAP program on which departmental policy is based on do not have any type of extra FAP allowance for special nutritional needs.

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 the claimant was entitled to receive, resulting in proposed decrease of such benefits for 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: January 4, 2010

Date Mailed: January 6, 2010

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.

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