

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: 2010-6819
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 5, 2010
Allegan County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 January 5, 2010. The claimant personally appeared and provided testimony, along with her husband, [REDACTED]

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning in November, 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. The claimants' case transferred from Kalamazoo County to Allegan County in April, 2009. (Department Exhibit 2 – 3).

2. On April 28, 2009, the claimant called and reported that she had begun to work and had started receiving Unemployment Compensation Benefits (UCB). (Department Exhibit 2).

3. The department did not request verifications or budget the claimants' income and UCB until a redetermination brought it to the department's attention. Once the department budgeted in the claimant's income and UCB, the monthly FAP benefit was reduced to \$13. (Department Exhibit 15 – 16).

4. The claimant submitted a hearing request on October 29, 2009.

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).

Department 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. PEM, 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"

PEM, Item 500, p. 15.

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency and comparable agencies in other states, and
- . Supplemental Unemployment Benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. PEM, Item 500, p. 34.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. PEM 500. The FAP program provides a deduction from earned income of 20% and a deduction for the cost of child care when necessary to enable a FAP household member to work. A standard deduction from income of \$135 is allowed. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$300 for non-senior/disabled/veteran households. PEM 500 and 554; Program Reference Manual, Table 255; 7 CFR 273.2.

In this case, the claimant timely reported that she was earning income and receiving UCB income, but the department neglected to enter the information into the FAP budget. The department did not notice the income was not entered until an October, 2009 redetermination. At that time, the department entered the UCB and wages into the FAP budget. This resulted in the claimants' FAP benefit being reduced from \$526 to \$13 monthly.

The claimants testified that they did not dispute the new FAP benefit amount, but did not want to be responsible to pay recoupment to the department because they had properly reported the income. However, the department testified that the claimants were under simplified

reporting requirements and that because the income was under the simplified reporting limit, recoupment would not be pursued.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly budgeted the claimant's FAP benefits beginning November, 2009.

Accordingly, the department's actions are UPHELD. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 2, 2010

Date Mailed: February 11, 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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