

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: 2010-1792/2010-18760
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 17, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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, an in-person hearing was held on March 17, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly verify necessary information regarding Food Assistance Program (FAP) expense budgeting when determining claimant's FAP allotment amount from October 2009 forward?

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 is a 66-year-old FAP recipient ([REDACTED]) who lives in a one person household in [REDACTED] (Department Exhibit #2, pg 1).

(2) On September 3, 2009, the department mailed a written notice to claimant informing her that her FAP allotment would be reduced to [REDACTED] per month based on [REDACTED] in Social Security income per month, as verified by the department's computerized cross-check of claimant's [REDACTED] Data (Department Exhibit #2, pgs 1-3 and 5-6).

(3) On September 16, 2009 and October 22, 2009, the department received written hearing requests from claimant protesting this FAP reduction which started on October 1, 2009.

(4) Claimant's hearing was held in-person on March 17, 2010.

(5) The department's witnesses stipulated on the hearing record the paperwork claimant provided to them in the Fall of 2009 regarding her purported obligation to a banking institution for a bona fide house mortgage was unclear and/or inconsistent.

(6) Accordingly, the department admitted they did not allow an expense deduction for claimant's purported monthly mortgage from her monthly income when determining the size of her FAP allotment from October 2009 forward.

(7) Claimant provided no new, different or updated mortgage documents at hearing to reconcile this inconsistency, or to verify that she does, in fact, have a bona fide bank mortgage.

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).

The applicable 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. PEM, Item 500, p. 1.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

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. PEM, Item 500, p. 29.

Countable income is defined in PEM 500. Available income, the amount of income to budget and when to complete a budget are defined in PEM 505. Use this item to determine the program group's budgetable income and financial eligibility. PEM, Item 518, p. 1.

WHEN TO COMPLETE A BUDGET

FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- . the department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- . a reported change results in the need to convert income to or from a standard monthly amount. PEM, Item 505, p. 8.

Income Increase

FIP, SDA, FAP

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, FIP/SDA - 15 workdays). The effective month is the first full month that begins after the CIMS Negative Action Effective Date. PEM, Item 505, p. 9.

BUDGETING EXPENSES

Budget Month

Use expenses from the same calendar month as the month for which you are determining benefits. PEM Item 554, p. 2.

Housing Expenses

Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group.

The expense must be a continuing one. Payments that exceed the normal monthly obligation are **not** deductible as a shelter expense unless the payment is necessary to prevent eviction or foreclosure, **and** it has **not** been allowed in a previous FAP budget. Additional expenses for optional charges, i.e., carport, pets, etc. are **not** allowed. PEM, Item 554, p. 9.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

All Programs

Clients must completely and truthfully answer all questions on forms and in interviews. PAM, Item 105, p. 5.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. PAM, Item 130, p. 1.

VERIFICATION AND COLLATERAL CONTACTS

DEPARTMENT POLICY

All Programs

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements.

Obtain verification when:

- . required by policy. PEM items specify which factors and under what circumstances verification is required.
- . required as a local office option. The requirement **must** be applied the same for every client. Local requirements may **not** be imposed for MA, TMA-Plus or AMP without prior approval from central office.

- information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party. PAM, Item 130, p. 1.

As of the hearing date, claimant had not provided any consistent verification to support an alleged monthly mortgage expense. However, the department's witnesses acknowledged on the hearing record they never asked claimant for clarification of the inconsistent paperwork she did submit. Instead, the department summarily reduced claimant's FAP allotment effective October 1, 2009, in violation of the above-referenced procedural rules. As such, the department's FAP reduction was premature and it must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department did not properly verify necessary information regarding FAP expense budgeting when determining claimant's FAP allotment amount from October 2009 forward.

Accordingly, the department's action is REVERSED, and this case is returned to the local office to allow claimant the time specified in the department's verification policy to submit the necessary mortgage verification. **SO ORDERED.**

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 22, 2010

Date Mailed: March 23, 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.

MBM/db

cc:

