

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: 2010-2973
Issue No: 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 28, 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 January 28, 2010. Claimant and her long term partner personally appeared and testified.

ISSUE

Did the department properly budget claimant's Food Assistance Program (FAP) benefits at mandatory redetermination?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) In March, 2009, claimant and her long term partner moved from [REDACTED] to [REDACTED]; consequently, their ongoing FAP case was necessarily transferred to

the [REDACTED] office for continued monitoring of their benefit eligibility and monthly benefit issuances.

(2) In September 2009, the department initiated a mandatory review of this household's FAP eligibility and benefit amount, as required by policy at BAM Item 210, pg 2.

(3) The department budgeted claimant's September 2009 FAP benefit level based on the written rental verification they possessed in September 2009, which showed a [REDACTED] monthly rental expense despite the fact claimant's rent was actually only [REDACTED] at that time (Department Exhibit #4, pg 1; Department Exhibit #5, pg 1; Department Exhibit #9, pg 2).

(4) Giving claimant the benefit of doubt that month, the department also allowed a [REDACTED] child support expense deduction allegedly incurred by her long term partner even though neither of them had yet provided written verification to support this payment, thus reducing claimant's long term partner's budgetable RSDI from [REDACTED] to [REDACTED] that month ([REDACTED] (Department Exhibit #2, pg 1).

(5) When these income and expense amounts were budgeted the department determined claimant's household was entitled to a monthly FAP issuance of [REDACTED] (Department Exhibit #9, pg 3).

(6) The department issued the same FAP allotment in October 2009, but correctly changed (lowered) claimant's monthly rental expense deduction to [REDACTED] and correctly increased the household's budgetable RSDI income to [REDACTED] per month because they verified claimant's long term partner's actual monthly child support expense was [REDACTED] not [REDACTED] (Department Exhibit #5, pg 1; Department Exhibit #9, pg 14; Client Exhibit A, pgs 1 and 2)(See also Finding of Fact #4 above).

(7) These changes decreased claimant's household's FAP allotment to [REDACTED] in November 2009, according to the budget submitted at hearing (Department Exhibit #9, pg 10).

(8) On October 21, 2009 and November 12, 2009, the department received claimant's hearing requests disputing the department's FAP budgeting and allotment issuances.

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:

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.

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

Only **adequate** notice is required for an application denial. **Timely** notice is required to reduce or terminate benefits.

Exception: At redetermination, **FAP** clients have until the last day of the redetermination month **or** 10 days, whichever is later, to provide verification. See PAM 210. PAM, Item 130, p. 4.

FAP INCOME BUDGETING

DEPARTMENT POLICY

This item applies **only to FAP**

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. PEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. PEM 500 defines countable income. PEM 505 defines available income and income change processing. This item describes income budgeting policy. PEM, Item 550, p. 1.

Always calculate income on a calendar month basis to determine eligibility and benefit amounts. Use income from a month specified in this item for the benefit month being considered.

Budget the entire amount of earned and unearned countable income. Gross countable earned income is reduced by a 20% earned income deduction. Every case is allowed the standard deduction shown in RFT 255. PEM, Item 550, p. 1.

FAP ALLOWABLE EXPENSES AND EXPENSE BUDGETING

DEPARTMENT POLICY

This item applies **only to FAP**.

Budget the following expenses to determine net income for FAP eligibility and benefit levels. PEM, Item 554, p. 1.

- . Groups **with** one or more SDV member:
 - .. dependent care expense up to the maximum in RFT 255; and
 - .. excess shelter, and
 - .. court-ordered child support and arrearages paid to non-household members, and
 - .. medical expenses for the SDV member(s) that exceed \$35 PEM, Item 554, p. 1.

Complete either manually-calculated or LOA2 budget to document expenses every time an expense change is reported. PEM, Item 554, p. 1.

ALLOWABLE EXPENSES

Allow an expense if:

- . the service is provided by someone outside of the FAP group, and
- . someone in the FAP group has the responsibility to pay for the service in money, and
- . verification is provided, if required. PEM, Item 554, p. 1.

Verification

You **must** verify the responsibility to pay and the amount of certain expenses. See the individual expense policy for verification requirements. Document verification in the case record.

Do **not** budget expenses that require verification until the verification is provided. Determine eligibility and the benefit level without an expense requiring verification if it cannot be verified.

Example: Do **not** include a medical expense that might be covered by a reimbursement if the amount of the reimbursement cannot be verified.

Treat subsequently provided verification to an eligible FAP group as a change. Issue a supplement for lost benefits **only** if:

- . the expense could **not** be verified within 30 days of the application, and
- . the local office was at fault. PEM, Item 554, p. 2.

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.

CHILD SUPPORT EXPENSES

Allow the following child support expenses:

- . the amount of court-ordered child support and arrearages paid by the household members to non-household members in the benefit month.
- . court-ordered third party payments (e.g., landlord or utility company) on behalf of a non-household member.
- . legally obligated child support paid to an individual or agency outside the household, for a child who is now a household member, provided the payments are not returned to the household.

Do not allow more than the household's legal obligation. The child support expense **must be paid** to be allowed. PEM, Item 554, pp. 4-5.

Verification

Verify child support expenses and arrearages paid to non-household members at application, redetermination and when a change is reported. The following must be verified:

1. The household's legal obligation to pay,
2. The monthly amount of the obligation for current child support, and

3. The amount of child support the household actually pays. PEM, Item 544, p. 5.

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.

Verification

Verify shelter expenses at application and when a change is reported. If the client fails to verify a reported change in shelter, remove the old expense until the new expense is verified.

Verify the expense **and** the amount for housing expenses, property taxes, assessments, insurance and home repairs. PEM, Item 554, p. 10.

Verification Sources

Acceptable verification sources include, but are **not** limited to:

- . mortgage, rental or condo maintenance fees contracts or a statement from the landlord, bank or mortgage company
- . copy of tax, insurance, assessment bills or a collateral contact with the appropriate government or insurance office
- . cancelled checks, receipts or money orders copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address if verifying shelter, the provider of the service and the name of the person paying the expense.
- . DHS-3688, Shelter Verification. A copy of this form will be sent to the FAP group and the specialist when a change of address is done on CIMS. The due date will be on the form.

The specialist must monitor for return of the form and take appropriate action if it is or is **not** returned.

- . current lease. PEM, Item 554, pp. 10-11.

Non-Heat Electric Standard

A FAP group which has no heat expense but has a responsibility to pay for non-heat electricity separate from rent/mortgage or condo/maintenance fees, must use the Non-Heat Electric Standard. The standard covers **only** non-heat electric.

Verification

Verify the non-heat electric expense at application and when a change is reported. PEM, Item 554, p. 12.

Allowable Expenses

Allow the following expenses:

- . Basic shelter expenses as described above
- . Heat and Utility Standard, or Individual Utility Standards
- . Utility Installation fees charged by the utility provider, excluding deposits
- . Well/septic installation and maintenance.

Exception: Heat and utility expenses may only be claimed for one home.

Verification

The FAP group **must** verify these expenses for a deduction to be allowed. You are not required to assist FAP groups in obtaining verification of shelter costs for an unoccupied home in another county or state. PEM, Item 554, p. 15.

After a careful review of claimant's disputed FAP budgets on the record at hearing, and again before issuing this Hearing Decision, this Administrative Law Judge finds all calculations were properly made in light of the verifications claimant and her long term partner provided at

review for the period between September 2009 and November 2009. As such, the department's budgeting actions must be upheld.

DECISION AND ORDER

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

Accordingly, the department's action is **AFFIRMED**.

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

Date Signed: February 3, 2010

Date Mailed: February 4, 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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