

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: 2010-2989
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 17, 2009
Jackson 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 November 17, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits beginning in 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. The claimant's case was due for a mid-certification during the month of September.
2. The department completed a new budget for the claimant. The claimant has unearned income of \$708 (\$620 RSDI, \$74 SSI and \$14 State Supplement SSI). The claimant

pays rent of \$203, which includes utilities and receives a telephone standard of \$33. The budget resulted in a FAP benefit of \$27 monthly. (Department Exhibit 6 – 11).

3. The claimant was mailed a Notice of Case Action (DHS-1605) on September 10, 2009, informing him of the monthly benefit amount. (Department Exhibit 1 – 4).

4. The claimant submitted a hearing request on September 18, 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:

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.

SUPPLEMENTAL SECURITY INCOME (SSI)

All Programs

Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount paid by the

state and the payment process varies by living arrangement. See PEM 660. For SSI recipients in independent living or household of another, refer to "Current SSA-Issued SSI", "Retroactive SSA-Issued SSI" and "State SSI Payments" below. For SSI recipients in other living arrangements, refer to just "Current SSA-Issued SSI" and "Retroactive SSA-Issued SSI". PEM, Item 500, p. 31.

Current SSA-Issued SSI

SDA, CDC, AMP and FAP Only

Count the gross amount of current SSA-issued SSI as unearned income. Include SSI withheld to recoup overpayments due to an IPV as defined below.

INCOME DEDUCTIONS

FIP and SDA Only

Income deductions are available at both the member and the group level. Apply deductions in the order they are presented in this item. PEM, Item 518, p. 4.

Earned Income Disregard

Deduct \$200 from each person's countable earnings. Then deduct an additional 20% of each person's remaining earnings. The total disregard cannot exceed countable earnings. Apply this disregard separately to each program group member's earned income. PEM, Item 518, p. 4.

A non-categorically eligible, non-SDV FS group must have income below the gross and 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.

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.

Heat Included in Rent or Fees

FAP groups whose heat is **included** in their rent or fees are not eligible for the Heat and Utility Standard, **unless**:

- . they are billed for **excess heat** payments from their landlord, **OR**
- . they report that they received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year (October through September) for their current address.

Telephone Standard

A FAP group which has no heat expense but has a responsibility to pay at least the basic fee required to maintain a telephone, must use the Telephone Standard. This includes cell phones. The standard covers **only** the telephone expense.

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 \$132 is allowed. Certain non-

reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. 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 Administrative Law Judge has reviewed the FAP budget and finds that the department properly computed the claimant's net income. The claimant's unearned income does total \$708. The claimant testified that the RSDI, SSI, shelter expense and telephone expense numbers were all correct. The federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. The department in compliance with the federal regulations has prepared issuance tables which are set forth at Program Reference Manual, Table 260. The issuance table provides that a household with household size and net income of the claimant is eligible for an FAP allotment of \$27.

It is noted that the claimant indicates that the department is "stealing his benefits" because the amount of his FAP benefit was reduced. The department staff member pointed out that the claimant has moved to subsidized housing and that his rent has decreased substantially. Further, the claimant no longer has to pay utilities, so he no longer receives the \$550 utility standard deduction. Thus, the claimant's benefits have reduced due to the significant reduction in his rent and utility standards.

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 October, 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: November 20, 2009

Date Mailed: November 24, 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.

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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