

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: 2010-4553
Issue No: 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 24, 2009
Genesee 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 decrease of such benefits effective 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 she reported in May, 2009 that she has moved and that her rent is now \$700 per month.

2. Department computed a new FAP budget with claimant's employment income of \$832.32 bi-weekly and her new rent. This budget resulted in FAP decrease from \$367 per month to \$67 per month effective October 1, 2009.

3. Claimant requested a hearing on October 14, 2009, listing her bills to include the rent, car payment, Comcast, car/renters insurance, Consumers and car maintenance payment.

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:

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.

Claimant states that she thought department uses net earned income, not gross income, in FAP eligibility determinations. Departmental policy quoted above clearly requires the department to count gross wages in the FAP budget. Such wages are then reduced by a 20% earned income deduction. Every case is allowed is allowed the standard deduction shown in RFT 255. BEM 550. Claimant indicated she now understands this policy.

FAP policy also specifies what kind of expenses can be allowed on the FAP budget, and states:

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. BEM, Item 554, p. 1.

- . Groups with **no** Senior/Disabled/Veteran (SDV) member:
 - .. dependent care expense up to the maximum in RFT 255, and
 - .. excess shelter up to the maximum in RFT 255, and
 - .. court ordered child support and arrearages paid to non-household members. BEM, Item 554, p. 1.

Claimant's car payments, Comcast bill, car/renters insurance and car maintenance payment cannot therefore be included on the FAP budget as allowable expenses. Claimant's Consumers Energy payments are however included in the computation of her shelter expenses as a standard amount, according to the following departmental policy:

MANDATORY HEAT AND UTILITY STANDARD

Heat Separate from Housing Costs

A FAP group which has a heat expense or contributes to the heat separate from rent, mortgage or condominium /maintenance payments, must use the Heat and Utility Standard. This standard covers all heat and utility costs except **actual utility expenses, i.e. installation fees**, etc. (See Actual Utilities in this item.) Do **not** prorate the Heat and Utility Standard even if the heat expense is shared.

FAP groups that qualify for the Heat and Utility Standard **do not** receive any other individual utility standards. BEM, Item 554, p. 11.

In summary, department did use claimant's gross earned income in the FAP budget, reduced by earned income deductions as specified in the FAP policy. Department also budgeted all of claimant's allowable expenses in accordance with FAP policy.

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 claimant was entitled to receive, resulting in 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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