

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: 2010-6810  
Issue No: 2014; 3002; 6019  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
February 23, 2010  
Ingham 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 February 23, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly close the claimant's Food Assistance Program (FAP) benefits due to excess income?
2. Did the department properly close the claimant's Child Development and Care (CDC) benefits due to excess income?
3. Did the department properly place the claimant on Transitional Medical Assistance (TMA) due to excess income?

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 was receiving UCB in the amount of \$774 biweekly. (Department Exhibit 1 – 4).

2. On October 13, 2009, the claimant submitted a Semi-Annual Contact Report (DHS-1046) that indicated she had been hired by [REDACTED] on October 12, 2009. (Department Exhibit 24 – 25).

3. On October 20, 2009, the claimant submitted a statement from [REDACTED] that indicated she had been hired on October 12, 2009 and would be employed at between 32 – 40 hours per week at \$10 per hour. (Department Exhibit 23).

4. The department averaged the claimant's income at \$360 per week (based on 36 hours multiplied by \$10 per hour). (Department Exhibit 21 – 22).

5. The averaged earned income of \$720 and the UCB income of \$1285 put the claimant as excess income for FAP and CDC. (Department Exhibit 10 – 12, 13 – 15).

6. On October 21, 2009, the department mailed the claimant a Notice of Case Action (DHS-1605) that indicated her FAP would close on November 1, 2009, due to excess income. (Department Exhibit 5 – 7).

7. The claimant did not lose any MA coverage, but was simply switched from the LIF coverage to the TMA. (Department Exhibit 8).

#### 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

**DEPARTMENT POLICY**

**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. BEM, Item 500, p. 34.

## **INCOME**

### **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. BEM, 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"

BEM, Item 500, p. 15.

## **PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING**

### **DEPARTMENT PHILOSOPHY**

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. BEM, Item 505, p. 1.

### **DEPARTMENT POLICY**

#### **FIP, SDA, CDC and FAP**

A group's financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see BEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). BEM, Item 505, p. 1.

**Fluctuating income:** Income received on a regular schedule but that varies from check to check, such as a waitress' income whose hours vary each week. BEM, Item 505, p. 1.

## **DETERMINING BUDGETABLE INCOME**

### **FIP, SDA, CDC, FAP**

Determine budgetable income using countable, available income for the benefit month being processed. BEM, Item 505, p. 2.

### **Past Months**

Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. See Standard Monthly Amount in this item.

**Exception:** Prospective income may be used for past month determinations when:

- . income verification was requested and received, and
- . payments were received by the client after verifications were submitted, and
- . there are no known changes in the income being prospected. BEM, Item 505, p. 2.

### **Current and Future Months**

Prospect income using a "best estimate" of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. BEM, Item 505, p. 2.

To prospect income, you will need to know:

- . the type of income and the frequency it is received (e.g., weekly),
- . the day(s) of the week paid,
- . the date(s) paid, and

- . the gross income amount received or expected to be received on each pay date. BEM, Item 505, p. 2.

## **BUDGETING INCOME**

Use the following guidelines to budget income.

### **Non-Child Support Income**

#### Using Past Income

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

**Note:** The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

**Discard** a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, if:
  - .. the past 30 days is not a good indicator of future income, and
  - ..
  - .. the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

**Note:** The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. BEM, Item 505, pp. 5-6.

### **Standard Monthly Amount**

#### Stable and Fluctuating Income

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

***Exception:*** Do not convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. BEM, Item 505, p. 7.

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 for each household. 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.

The claimant has a total monthly unearned income that averaged to be \$1285 (UCB) for FAP purposes. The claimant's employment with [REDACTED] was also estimated at 36 hours per week and \$10 per hour. Averaged out, this would be \$1548 (\$720 multiplied by 2.15). Once the deductions are taken, the claimant has a net monthly income of \$2833.00. The monthly net

income limit to receive FAP benefits for a group of three is \$1526. RFT 250. Thus, the claimant does have excess income to be eligible for FAP benefits.

The claimant was also excess income for CDC benefits, as she had \$2005 in countable income and the income eligibility limit is \$1990. Thus, the claimant was excess income for CDC benefits, as well.

The claimant disputes the department's determination to budget both the UCB and the earned income into her benefit budgets. However, as the department points out, the claimant continued to receive UCB into the end of October, 2009. A standard monthly amount must be determined for each income source used in the budget. PEM 500. Thus, since the claimant was receiving UCB and earned income, it was necessary to include both averaged amounts in the claimant's budget.

There was no negative action on the claimant's MA benefits. Due to the earned and unearned income the claimant was receiving, she was switched from the Low-Income Families (LIF) program to the Transitional Medical Assistance (TMA) program. The claimant further testified that she was soon switched back to LIF because she had to quit her job and had no more earned income.

It is noted that the claimant testified that she quit her job on approximately November 2, 2009. This changed the claimant's income and her eligibility for programs. The claimant was again eligible for FAP and LIF, which she was approved to receive. The claimant was not eligible for CDC as she did not have a valid need for CDC services.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that:

1. The department properly closed the claimant's Food Assistance Program (FAP) benefits due to excess income.
2. The department properly closed the claimant's Child Development and Care (CDC) benefits due to excess income.
3. The department properly placed the claimant on Transitional Medical Assistance (TMA) due to excess income.

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: April 14 , 2010

Date Mailed: April 15, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

SLK 

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