

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 2011339
Issue No. 3003
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: December 1, 2010
Ingham 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 the claimant's request for a hearing. After due notice, an in-person hearing was held on December 1, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly calculate claimant's monthly Food Assistance Program (FAP) allotment at mandatory redetermination in August 2010?

FINDINGS OF FACT

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

1. At all times relevant, claimant is (and remains) a one-person FAP household in [REDACTED].
2. Claimant's mandatory FAP redetermination was initiated in August 2010 to determine her continued eligibility and monthly FAP benefit level, as required by policy at BAM Item 210.
3. The department discovered and verified claimant's monthly rental expense actually increased to [REDACTED] per month at the time of review; consequently, they updated her budget to reflect this change.
4. Additionally, claimant's only income source is [REDACTED] in monthly [REDACTED] based on her disability status.

5. Also budgeted against claimant's disability income for determination of her monthly FAP allotment, the department included the [REDACTED] she pays each month for her Medicare premium expense.
6. All of claimant's increased expenses (including her rental increase) caused the department to increase her monthly FAP allotment to [REDACTED] per month (up from [REDACTED] per month)(Department Exhibit #1, pgs 10-12).
7. On August 27, 2010, claimant signed a hearing request in direct response to the department's written notice telling her about the increase in her monthly FAP allotment.
8. Claimant's hearing was held in the Ingham County DHS office on December 1, 2010.
9. At the hearing, claimant requested a different worker; however, she stated she does not have any complaints about her FAP increase.

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 FAP budgeting policy states:

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.

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.

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

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.

SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are allowed when billed. The expenses do **not** have to be paid to be allowed. PEM, Item 554, p. 9.

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.

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. PEM, Item 554, p. 11.

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.

Verification

Verify the excess heat expense at application and when a change is reported. Accept the client's statement regarding Home Heating Credit receipt or future application. PEM, Item 554, pp. 11-12.

Verification Sources

Acceptable verification sources include, but are not limited to:

- . current bills or a written statement from the landlord for excess heat expenses

- . collateral contact with the landlord
- . cancelled checks, receipts or money order copies, if current. The receipt must contain minimum information to identify the expense, the amount of the expense, the expense address, the provider of the service and the name of the person paying the expense. PEM, Item 554, p 12.

This Administrative Law Judge has reviewed the above-referenced FAP budgeting policy in light of claimant's updated budget, and she finds all calculations were properly made. Claimant was, in fact, eligible for [REDACTED] in monthly FAP benefits at the time the department initiated her redetermination in August 2010. As such, the department's FAP action must be upheld based on the following undisputed facts: 1) the budgeting is correct; and 2) claimant stipulated at hearing she does not have a dispute with her current monthly FAP allotment.

Claimant stated she requested a hearing because she does not like the service heretofore provided by her DHS worker. She was seeking an Order For Worker Reassignment. This request simply is a personnel matter not within the scope of authority delegated to Administrative Law Judges in the contested case arena. However, the department's policy at BAM Item 105, pg 4 states:

General Complaints

Clients have the right to make general complaints about matters other than the right to apply, nondiscrimination or hearing issues. Written complaints can be sent to:

Michigan Department of Human Services
Office of Inquiry and Concerns
235 S Grand Ave
P O Box 30037
Lansing MI 48909

That office also responds to complaints via telephone:
517-373-0707.

Claimant may contact this office at any time regarding her complaints against her local office worker.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly calculated claimant's monthly FAP allotment at mandatory redetermination in August 2010.

Accordingly, the department's action is AFFIRMED.

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

Date Signed: December 8, 2010

Date Mailed: December 8, 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:

