

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. 20117589
Issue No. 3002
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: January 20, 2011
Kalamazoo 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 January 20, 2011. Claimant and his wife personally appeared and testified.

ISSUE

Did the department properly determine claimant's household was eligible for a [REDACTED] monthly Food Assistance Program (FAP) allotment effective November 1, 2010?

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 department initially approved only claimant eligible for monthly FAP benefits pursuant to an application he filed on October 6, 2009 (Department Exhibit #1, pgs 1-7).
2. Claimant's spouse was not considered part of his FAP group at that time because she lacked US citizenship status required to qualify for FAP.
3. At initial application claimant was not earning income; consequently, the department approved the maximum monthly FAP allotment for him, as allowed by departmental policy at RFT 260, pg 1 ([REDACTED]).

4. At that time, the department advised claimant to report any changes in household income, specifically, [REDACTED] ([REDACTED]) if and when claimant started to receive them.
5. On September 3, 2010, claimant reported and verified his wife finally became a naturalized US citizen, and also, he requested she be added to his FAP case (Department Exhibit #1, pg 9).
6. Claimant's wife was part-time employed at a local department store when the department added her to claimant's FAP case, as verified by her check stubs, submitted September 23, 2009 (Department Exhibit #1, pg 11 and 16-19).
7. Additionally, the department verified claimant did, in fact, start receiving [REDACTED] per week in [REDACTED] benefits in October 2009 (Department Exhibit t#1, pgs 21-24).
8. Consequently, when the department updated this married couple's monthly FAP allotment at redetermination, they determined the household was eligible for [REDACTED] per month in FAP benefits, no more than that (Department Exhibit #1, pgs 10 and 26-28).
9. On November 1, 2010, the department received claimant's written hearing request protesting their [REDACTED] FAP allotment as insufficient to meet their needs.
10. Claimant's hearing was held on January 20, 2011, in the [REDACTED] office (DHS).
11. Claimant stated at hearing the [REDACTED] per month FAP issuance was insulting, and thus, he was seeking an increased FAP amount.

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 department's applicable FAP income and budgeting policy states:

INCOME

DEPARTMENT POLICY

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. PEM, Item 500, p. 1.

Income remaining after applying the policy in this item is called **countable**.

Count all income that is NOT specifically excluded. PEM, Item 500, p. 1.

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. PEM, Item 500, p. 34.

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"

PEM, 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. PEM, 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 PEM 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). PEM, Item 505, p. 1.

Stable income: Income received on a regular schedule that does not vary from check to check based on pay schedules or hours worked. Examples: a job in which the paycheck amounts don't vary and are paid on a regular schedule; or RSDI or SSI. PEM, 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. PEM, Item 505, p. 1.

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. PEM, Item 505, p. 2.

WHEN TO COMPLETE A BUDGET

FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- . the department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- . a reported change results in the need to convert income to or from a standard monthly amount. PEM, Item 505, p. 8.

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

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.

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.

Verification

Verify the heat obligation at application and when a change is reported, **except** for groups that own or are purchasing their home. PEM, Item 554, p. 11.

Verification Sources

Acceptable verification sources include, but are not limited to:

- . current bills or a written statement from the provider for heat expenses
- . collateral contact with the landlord or the heat provider
- . 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.
- . DHS-3688, Shelter Verification
- . current lease PEM, Item 554, p. 11.

Claimant objects to the department's reduction of this couple's FAP allotment because it is extremely difficult for them to manage their food budget and still eat properly. While this Administrative Law Judge acknowledges claimant's genuine disappointment and frustration, she is bound by the laws and regulations governing the issuance of FAP benefits, on which the department's policies are based. An extensive review of claimant's disputed budget by this Administrative Law Judge before rendering this Hearing Decision shows that all calculations

