

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: 2011-8829  
Issue No: 3002

[REDACTED] [REDACTED]  
Hearing Date: January 13, 2011  
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

**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 January 13, 2010. The claimant personally appeared and provided testimony.

**ISSUE**

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits in October, 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 claimant submitted a Redetermination packet on September 2, 2010. The claimant reported income sources as his RSDI, his son's RSDI, his other son's chore services income and self-employment income delivering the [REDACTED]. (Department Exhibit 12 – 15)
2. On October 4, 2010, the department mailed the claimant a Verification Checklist (DHS-3503) requesting proof of the claimant's self-employment income. (Department Exhibit 10 – 11)
3. The claimant submitted a Verification of Employment (DHS-38) that he completed himself on October 14, 2010. (Department Exhibit 19 – 20)

4. On October 22, 2010, the claimant submitted a letter from the [REDACTED] [REDACTED] that outlined his self-employment earnings. (Department Exhibit 21)
5. The department budgeted the claimant's income and expenses and decreased the claimant's FAP benefits to [REDACTED] effective October 1, 2010.
6. The claimant submitted a hearing request on November 16, 2010.

### **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).

Department 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. 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.

### **Countable Self-Employment Income**

Countable earnings from self-employment equal the total proceeds **minus** allowable expenses of producing the income. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income **except** for farm loss amounts. See "Farming Expenses" below. PEM, Item 500, pp. 12-13.

Allowable expenses are the **higher** of:

- . 25% of the total proceeds, **or**
- . actual expenses if the client chooses to claim and verify the expenses. PEM, Item 500, p. 13.

## **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.

## **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. BEM, Item 518, p. 4.

### **Earned Income Disregard**

Deduct [REDACTED] 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. BEM, Item 518, p. 4.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. BEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. BEM 500 defines countable income. BEM 505 defines available income and income change processing. This item describes income budgeting policy. BEM, 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. BEM, 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. BEM, 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. BEM, Item 554, p. 11.

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. BEM 500. The FAP program provides a deduction from earned income of 20%. A standard deduction from income of [REDACTED] is allowed. 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. BEM 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 decrease in the FAP benefit amount occurred for two reasons. The claimant had two sources of income that had not been budgeted into the FAP budget prior to October, 2010. These were his self-employment income with the Jackson Citizen Patriot and his son's chore services income. Because these two sources of income had not been budgeted previously, this caused a significant decrease in the claimant's FAP benefits.

It is noted that the department gave the claimant the 25% deduction for self-employment expenses. The claimant testified that he believes he pays more than that amount in self-employment expenses. Therefore, the claimant was advised that he

