

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: 2009-11425

Issue No: 3002; 3003

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

March 12, 2009

Genesee 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 March 12, 2009. The claimant personally appeared and testified, along with his wife, [REDACTED] with the use of an interpreter, [REDACTED] a family friend, as the claimant and his wife are deaf.

ISSUE

Did the department properly budget the claimant's Food Assistance Program (FAP) benefits, which took effect in January 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. The claimant was a recipient of FAP benefits when his case came due for a mid-certification review.

2. The claimant returned the Mid-Certification Contact Notice (DHS-2240-A) on August 26, 2008. The claimant noted on the form that he had gotten married on August 16, 2008, to [REDACTED] (formerly Owens) (Department Exhibit B1).

3. The department added [REDACTED] to the claimant's FAP group. A budget was completed which included the claimant's RSDI of [REDACTED] and the claimant's wife's RSDI of [REDACTED]. Expenses budgeted included a shelter expense of [REDACTED], a non-heat electric standard of [REDACTED] and a telephone standard of [REDACTED]. This budget provided the claimant with a FAP benefit of \$ [REDACTED] monthly (Department Exhibit C1 – 2).

4. The claimant was mailed an Eligibility Notice on November 25, 2008, which indicated that effective January 1, 2009, the claimant's FAP benefits would be [REDACTED] monthly (Department Exhibit C9).

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).

Department policy states:

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

DEPARTMENT POLICY

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

To establish FAP group composition determine:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation. (See “LIVING SITUATIONS” in this item.)

PEM, Item 212, p. 1.

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately. PEM, Item 212, p. 1.

Spouses

Spouses who are legally married and live together **must** be in the same group. PEM, Item 212, p. 1.

FOOD PURCHASE AND PREPARATION

The phrase **purchase and prepare together** is meant to describe persons who customarily share food in common.

Persons **customarily** share food in common if:

- . they each contribute to the purchase of food; or
- . they share the preparation of food, regardless of who paid for it; or
- . they eat from the same food supply, regardless of who paid for it.

In general, persons who live together and purchase and prepare food together are members of the same FAP group.

Persons who normally purchase and prepare separately maintain that distinction even when they are temporarily sharing food with others.

Persons are **temporarily** sharing food if:

- . they had previously purchased and prepared separately; **and**
 - . others are sharing their food until the person:
 - .. is approved for FAP, **or**
 - .. qualifies for other cash assistance, **or**
 - .. secures some other source of income.
- PEM, Item 212, p. 5.

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.

The claimant and his wife testified that they don't believe the amount of their FAP benefit to be correct. The claimant and his wife were living together prior to getting married, but were on separate FAP groups, as they indicated they were purchasing and preparing their food separately. The claimant and his wife were married on August 16, 2008. Once the claimant and his wife were married, they became mandatory members of the same FAP group. PEM 212, p. 1.

The claimant and his wife do not dispute that the amount of RSDI was budgeted properly. The difference between the benefits the claimant and his wife were receiving prior to getting married and the benefit amount they are receiving now that they are married has to do with the budgeted shelter amount. Departmental policy indicates that shelter expenses can not be prorated when shared. PEM 554, p. 9. Thus, when the claimant and his wife were living together but on separate FAP cases because they were not married and they purchased and

prepared their food separately, they were both given credit for the whole shelter expense (██████). Once married, the claimant and his wife had to be in the same FAP group and could only be given credit for one shelter expense. This fact accounts for the decrease in FAP benefits.

Thus, the department did properly budget the claimant's FAP benefits effective January, 2009. It is noted that this Administrative Law Judge did discuss with the claimant and his wife a deduction they could have in their FAP budget for medical expenses. As the claimant and his wife are disabled, they qualify as a Senior, Disabled or Veteran (SDV) household. The claimant and his wife indicated they have a large amount of medical bills that they are responsible for (i.e. not reimbursed for). This Administrative Law Judge did inform the claimant and his wife to provide documentation of these medical expenses to the department worker, as SDV households are allowed to claim unreimbursed medical expenses on their FAP budget. PEM 554. The department representative testified that these medical expenses could change the amount of FAP benefits the claimant and his wife are receiving.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did properly budget the claimant's FAP benefits effective January 1, 2009.

Accordingly, the department's action is AFFIRMED. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 23, 2009

Date Mailed: March 23, 2009

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.

SLK [REDACTED]

cc: [REDACTED]