

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: 2009-16876
Issue No: 3019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 22, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Tyra L. Wright

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 hearing was held on April 22, 2009. Claimant and her son personally appeared and testified. The Department was represented by a family independence manager and an eligibility specialist.

ISSUE

Did the Department properly determine that Claimant's son should be removed from the Food Assistance Program (FAP) group?

FINDINGS OF FACT

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

- (1) Claimant is a FAP recipient. She receives \$463 in FAP benefits for a group size of three that includes her 15-year-old son.

- (2) The son attends [REDACTED]. (Exhibit 8, 10,11, 13).
- (3) Claimant and the son's father have had joint legal and joint physical custody of him since October 2007. (Exhibits 2 and 3).
- (4) The father informed the Department that the son lives with him and that the son started living with him in 2007. (Exhibits 1 and 13-14). The father also provided a letter to the Department and a calendar indicating nights that the son spent at his residence.
- (5) The son testified that since November 2008, he has stayed with his father during the week at [REDACTED] and with his mother [REDACTED] on the weekends.
- (6) Claimant contends that the father was not truthful when he gave the Department the calendar stating the nights that his son has spent with him.
- (7) The Department received Claimant's hearing request on March 12, 2009. (Exhibit 22).

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 (formerly known as the Family Independence Agency) 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

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.

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.

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group.

Primary Caretaker

The **primary caretaker** is the person who is primarily responsible for the child’s day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. (PEM 212, p. 1)

VERIFICATION REQUIREMENTS

Verify group composition factors if the information given is questionable. Such factors might include boarder status, age or senior members, and inability to purchase and prepare meals separately.

Primary Caretaker Accept the client’s statement regarding the number of days per month (on average) a child sleeps in their home. Verify only if questionable or disputed by the other parent. (PEM 212, p. 9).

Under PEM 212, “the **primary caretaker** is the person who is primarily responsible for the child’s day-to-day care and supervision in the home where the child sleeps more than half of

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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.

TW/dj

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