

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: 2009-19346

Issue No: 3003, 3014

Case No:

Load No:

Hearing Date:

May 20, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on May 20, 2009.

ISSUE

Whether the Department properly denied Claimant's application for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

- (1) Claimant was a FAP recipient.
- (2) On December 8, 2008, Claimant filled out a DHS-1171 for the certification period of January 1, 2009 to December 31, 2009. Claimant stated that she lived with her Mother and answered yes to the question – "Does everyone in the household buy food and fix or eat meals together". (Exhibit 6)

(3) On January 23, 2009, the Department completed a FAP budget for a group size of 2 based on their expenses and Claimant's Mother's income which resulted in a FAP allotment of \$0 due to excess income. (Exhibits 1, 2, 3,4)

(4) On January 23, 2009, the Department mailed Claimant an Eligibility Notice which explained that she was not eligible for FAP benefits. (Eligibility Notice)

(5) On March 6, 2009, the Department received Claimant's hearing request protesting the denial of her application for FAP benefits. (Hearing Request)

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. Departmental policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM), and the Program Reference Manual (PRM).

Group composition is the determination of which persons living together are included in the FAP program group. To establish FAP group composition, the Department must consider who lives together and their relationship(s), whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation. PEM 212, p.1

The relationships of the people who live together affects whether they must be included or excluded from the group. Spouses who are legally married and live together must be in the same group. 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 of child who lives with the group. A person acting as a parent and the children for whom he or she acts as a parent who live with him must be in the same group. PEM 212, p.1

Living together means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share only an access area (e.g., entrance or hallway) or non-living area (e.g., laundry) are not considered living together. PEM 212, p.2

A temporarily absent person is considered to be living in the home. A person's absence is temporary if:

- His/her location is known; and
- There is a definite plan for his/her return; and
- He/she lived with the program group before the absence (newborns are considered to have lived with the group); and
- The absence has lasted or is expected to last 30 days or less. PEM 212, p.2

If it is not a mandatory group member situation, it must be determined if the people purchase and prepare food together or separately. 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. PEM 212, p.4-5

For FAP purposes, all earned and unearned income available to the Claimant is countable. 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 and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. PEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. PEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. PEM 505

In the instant case, Claimant has apparently lived with her mother for some time and received FAP benefits because she had not previously listed her as a household member on her application and, as a result, her mother's income had never been attributed to her. On her most recent application, Claimant listed her mother as a household member and stated that they bought food, fixed and eat meals together.

While Claimant testified that she made a mistake on the application, that she paid for her own food when she received FAP benefits, she does not eat breakfast or lunch with her Mother and that while she eats with her Mother at dinner – they are eating separate meals, it is clear that Claimant and her Mother are not just roommates who split

the living expenses 50-50 and buy their own food and make separate meals. Claimant and her Mother should be included in the same FAP group because Claimant lives in her Mother's home and her Mother pays all the bills with her [REDACTED] and [REDACTED] income and they eat from generally the same food supply regardless of whether they might eat at separate times and have different diets.

With that said, I find that the Department established that it acted in accordance policy in denying Claimant's application for FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in denying Claimant's application for FAP benefits.

Accordingly, the Department's FAP eligibility determination is AFFIRMED, it is SO ORDERED.

/S/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 26, 2009

Date Mailed: May 28, 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.

SMB/db

cc:

