

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: 2009-30721  
Issue No: 3014  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
September 17, 2009  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 Detroit, Michigan on September 17, 2009. The Claimant did not appear but was represented by [REDACTED], father and Partial Guardian. Newlene Harper, ES, and Ursula Barrett, FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly determined Claimant's Food Assistance ("FAP") benefits group size.

FINDINGS OF FACT

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

1. The Claimant applied for FAP on June 16, 2009 listing claimant and his father as the persons who live in the household. (Department Exhibit 4 pgs. 1-4)

2. On the application, “yes” was marked to the question asking if everyone in the household buys food and fixes or eats meals together. (Department Exhibit 4 pg. 3)
3. The department determined claimant’s group size was 2 persons, consisting of claimant and his father.
4. The department included the father’s income when calculating the FAP budget and determined claimant did not meet the financial eligibility requirements for the program. (Department Exhibit 3)
5. Claimant requested a hearing contesting the FAP determination on July 1, 2009.

#### CONCLUSIONS OF LAW

The Food Assistance Program, 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”), formally known as the Family Independence Agency, 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”).

In determining FAP group composition, the department looks at who lives together, the relationship(s) of the people who live together, and whether the people living together purchase and prepare food together or separately. PEM 212. 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 212.

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. PEM 212. In the present case, claimant is 22 years old; therefore it is not mandatory that he and his father be included in the same group.

Under PEM 212, 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 share the preparation of food, regardless of who paid for it; or 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 FAP group. PEM 212.

In the present case, claimant's father marked "yes" to the question on the application regarding whether the persons in the home purchase and prepare or eat meals together. (Department Exhibit 4 pg. 3) However, the application also notes that claimant suffers from downs syndrome. (Department Exhibit 4 pg. 7) At the hearing, claimant's father gave credible testimony to clarify that the food is purchased with separate funds and to the extent possible, meals are prepared separately. Claimant's father testified that claimant occasionally goes to the store with him, but that claimant would not be able to purchase food on his own. Claimant's father further testified that claimant's money is kept in a separate account which is used for claimant's needs and expenses, including purchasing claimant's food.

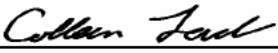
Regarding the preparation of meals, claimant's father testified that to the extent possible, claimant does prepare his own meals with the food purchased separately for claimant. Claimant's father testified that while the father does assist with some meal preparation for claimant, this is because the claimant is only able to prepare simple things, like sandwiches, due to his disability.

Based upon the foregoing facts and relevant law, it is found that claimant's father should not have been included in the FAP group. Claimant's father is not a mandatory group member and to the extent possible, food is purchased and prepared separately. The department shall reinstate the June 16, 2009 application and re-determine eligibility.

DECISION AND ORDER

The ALJ, based upon the findings of fact and conclusions of law, decides that the department erred in determining the FAP group and it is ordered that the Department's decision in this regard be and is hereby REVERSED.

Therefore, it is ORDERED that the department re-instate the June 16, 2009 FAP application and re-determine eligibility, awarding benefits to claimant, if appropriate, in accordance with this decision.

  
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Colleen Lack  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 10/07/09

Date Mailed: 10/08/09

**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.

CL/dj

2009-30721/CL

cc:

