

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: 2009-31884
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 9, 2009
Allegan 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 September 9, 2009. The claimant personally appeared and provided testimony, along with her ex-husband, [REDACTED].

ISSUE

Did the department properly add [REDACTED] to [REDACTED]'s FAP case in July, 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. Both claimants participated in a department interview on July 1, 2009. At that time, the claimants reported that they were divorced, but living together and purchasing and preparing food together. [REDACTED] separate case was closed and he was added to

██████████' case, which made them ineligible for FAP assistance due to excess income. (Department Exhibit 2).

2. ██████████ called and spoke with the case worker on July 21, 2009.

██████████ indicated that she disagreed with the policy that indicated they must be on the same FAP group if they purchase and prepare food together and requested the name of a supervisor. (Department Exhibit 3).

3. The claimants submitted a hearing request on July 28, 2009.

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.

LIVING WITH

Living with 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.

See PEM 617 for policy regarding persons in other group living situations. PEM, Item 212, p. 2.

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.

In this case, the claimants do not dispute that they reside together. While they are ex-husband and wife, they are currently residing together. The claimants had previously indicated that they prepare and purchase food separately. During an interview on July 1, 2009, the claimants indicated that they purchase and prepare food together.

Department policy requires individuals who are living together and preparing and purchasing food together to be on the same FAP group. PEM 212. Thus, when the claimants indicated that they prepare and purchase food together, the department placed them on the same FAP group, which made them ineligible for FAP assistance because of excess income.

The claimants indicate that they disagree with this policy. Testimony established that the claimants do go grocery shopping together because [REDACTED] does not have a car and she rides with [REDACTED]. Testimony also established that they sometimes cook together and eat together, but not always. Based on the statements the claimants made to the department at the July 1, 2009, interview and the statements made in this hearing, this Administrative Law Judge finds that the department properly determined that the purchase and prepare food together.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that the claimants should be on the same FAP group as they live together and purchase and prepare food together.

Accordingly, the department's decision is UPHELD. SO ORDERED.

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

Date Signed: October 22, 2009

Date Mailed: October 26, 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 

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