

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: 2009-32221
Issue No: 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 1, 2009
Ionia County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 1, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly determine in July, 2009 that the claimant's household had excess income for Food Assistance Program (FAP) benefits?

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 was a FAP recipient when her case came due for a yearly review.
2. Claimant attended an interview on July 7, 2009 and reported that her boyfriend and his son now live with her and purchase and prepare their food together with her family.

3. Department computed a new FAP budget counting the employment income of claimant's boyfriend. This budget resulted in determination of excess income for FAP benefits.

4. Claimant's FAP certification period expired on July 31, 2009, and she could not be approved for FAP past this date, as her household had excess income for continuing FAP eligibility. Claimant was notified of FAP termination on July 28, 2009 and requested a hearing on August 3, 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).

Departmental 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.

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. PEM, Item 212, p. 1.

Claimant has two children who were not fathered by her boyfriend. As claimant's boyfriend is neither her spouse or the father of her children, his inclusion in claimants FAP group was based on claimant's report that they prepare and purchase their food together. Departmental policy further states:

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.

Department correctly included claimant's boyfriend and his minor child on the claimant's FAP group. Subsequently, the boyfriend's employment income also had to be counted in determining continuing FAP eligibility, and resulted in excess income for FAP.

Departmental policy also states:

NON-GROUP MEMBERS

Persons might live with the FAP group or applicant group who are **not** group members. Do **not** consider their income and assets when determining the group's eligibility. PEM Item 212, p. 7.

Claimant was advised that if her circumstances have now changed in that she purchases and prepares food for herself and her two children separately from her boyfriend and his child, she may re-apply for FAP for herself and her two children only. Claimant states she will do so.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined in July, 2009 that the claimant's household had excess income for FAP benefits.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 3, 2009

Date Mailed: September 8, 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.

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