

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: 2009-4477

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 21, 2009

Wayne 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 Kalamazoo, Michigan on January 21, 2009.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance benefits (FAP)?

FINDINGS OF FACT

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

1. On June 15, 2008, Claimant applied for FAP stating that she lived with her father and her son and that everyone in the household bought food and fixed or eat meals together.

(Exhibit 3)

2. On July 23, 2008, the Department completed a FAP budget which included Claimant's father's RSDI income and resulted in excess income for the group. (Exhibit 1)

3. On July 23, 2008, the Department sent Claimant an Eligibility Notice which stated that she was not eligible for food stamps. (Exhibit 2)

4. On October 24, 2008, the Department received Claimant's hearing request protesting the denial of her FAP application.

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").

Group composition is the determination of which persons living together are included in the FAP program 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 or child who lives with the group. PEM 212. Thus to establish FAP group composition, the Department must consider in part, who lives together and their relationship(s), and whether the people living together purchase and prepare food together or separately. PEM 212.

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. 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
- . 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.

PEM 212. In general, persons who live together and purchase and prepare food together are members of the same FAP group. PEM 212.

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.

In the instant case, Claimant, her father and her son must be treated as members of the same FAP group and, therefore, the Department followed policy by using Claimant's father's income in the determination of benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied Claimant's FAP application.

Accordingly, the Department's FAP eligibility determination AFFIRMED.

/s/

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

Date Signed: January 28, 2009

Date Mailed: February 19, 2008

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

cc:

[REDACTED]