

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2009-16414

Issue No: 3014

Case No: ██████████

Load No: ██████████

Hearing Date:

April 20, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 April 20, 2009. The Claimant appeared and testified. ██████████ appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance ("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. The Claimant is a FAP recipient.
2. A FAP review was completed on 12/16/08 at which time Claimant applied for MA and FIP.

3. Claimant indicates in his hearing request that he was applying for food assistance for his family, not just himself.
4. The Claimant's application indicates that [REDACTED] do not buy their food or prepare meals with Claimant. (Exhibit 1, p.3).
5. The application further lists [REDACTED] as "friends". When asked what type of help each of them need, the box "none" was checked. (Exhibit 1, at 4-5).
6. Food assistance was granted for Claimant alone.
7. Claimant testified that [REDACTED], is Claimant's son. Claimant testified that he has never executed an affidavit of parentage regarding [REDACTED]. Claimant further testified that he was never married to [REDACTED] mother. Claimant does not have guardianship of [REDACTED]
8. Claimant testified that [REDACTED] biological sister and that she is twenty-eight years old and employed.
9. Claimant is under the impression that he applied for Medicaid, food assistance and a cash grant for his family.
10. On March 5, 2009, the Department received the Claimant's Request for Hearing.

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. PEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, it must be determined if they must be included in the group. If they are not mandatory group members, then it must be determined if they purchase and prepare food together or separately. Spouses and primary caretakers of minor children are considered mandatory group members. PEM 212, p. 1.

The primary caretaker is the person who is primarily responsible for the child’s day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. A caretaker is a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group. Id. When primary caretaker status is questionable or disputed, the determination should be based on the evidence provided by the caretakers and each caretaker should be given the opportunity to provide evidence supporting his/her claim. Id. at 10.

In the instant case, Claimant claims that he is the father and primary caretaker of [REDACTED]. However, Claimant listed [REDACTED] as a “friend” on the FAP application. Claimant also indicated in the application that [REDACTED] did not buy food or fix and eat meals together with Claimant. If Claimant had indicated that he was the primary caretaker at the time of application, then the Department would have an obligation to evaluate evidence to determine whether the minor child should be included in the FAP group. In this instance, however, the evidence reveals

