

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: 2009-6851  
Issue No: [REDACTED]  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
March 3, 2009  
Oakland 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 March 3, 2009. Claimant personally appeared and testified.

ISSUE

Did the department correctly deny claimant's application for Food Assistance Program (FAP) benefits in October, 2008?

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 applied for FAP on October 10, 2008, and stated on her application that she lives with her son and that everyone in the household purchases and prepares their food together (Department's Exhibits #1 and 2).

2. As the claimant's son was already receiving FAP benefits under another case number, worker noted in the Notes section of the application that she had advised the claimant she would need to be added to her son's FAP case handled by a different caseworker (Department's Exhibit #3).

3. Claimant's FAP application was denied as she had to be added to her son's FAP case. Department alleges that the claimant was sent an Application Eligibility Notice denying her FAP application and advising her that she must be added to her son's case, but the Notice cannot be located as of the date of the hearing. Claimant states she never received such a Notice.

4. Department has provided an Application Eligibility Notice dated June 4, 2008, that tells the claimant that her FAP application is denied as her son needs to have her added to his FAP case (Department's Exhibit #4).

#### 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.

### **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.

That the claimant lived with her son and stated on her October, 2008 application that everyone in the household buys food and fixes or eats meals together is not in dispute. Departmental policy requires that household members that purchase and prepare their food together be in the same FAP group. Claimant was notified in June, 2008 that she must be added to her son's already active FAP case. Department cannot provide the October, 2008 denial notice as it has been lost/misplaced as of the date of the hearing. Department however wants to use the June, 2008 notice as evidence that the claimant knew that she had to be added to her son's FAP case.

Claimant testified that she never received a notice of October, 2008 denial, and if one was sent to her she would have had the opportunity to be added to her son's FAP case and receive benefits on that case. Claimant also at first testified that she did not see the section of the denial notice sent to her in June, 2008 pertaining to FAP, but then stated she never received the notice as she was evicted from the same residence where she presently resides. Even if the claimant received the June, 2008 notice it would not be sufficient evidence to prove that she also received such a notice in October, 2008, or to hold the claimant responsible for knowing that she had to be added to her son's case in October, 2008. Departmental policy is very clear in stating

what department must do when an application is denied. This policy requires the department to use the DHS-1150, Application Eligibility Notice and send it within the standard of promptness. PAM, Item 115, p. 15. Department cannot provide evidence that this policy was followed.

This Administrative Law Judge also notes that if the claimant had completed an application for FAP and stated she had considerable income, failure to address her inclusion on her son's FAP case on part of the department once they had such information could have resulted in an overissuance of benefits. Departmental policy states:

### **PREVENTION OF OVERISSUANCES**

#### **All Programs**

DHS must inform clients of their reporting responsibilities and act on the information reported within the standard of promptness.  
PAM 700, p. 2.

In claimant's case she reported no income, and department's failure to act on information that she was living with an active FAP recipient only resulted in detriment to her, not in an overissuance of FAP benefits to her son. However, department is required to act on all of the information reported, whether it results in increase or decrease in benefits. The claimant completed a FAP application in April, 2008 that was denied in June, 2008, and then another FAP application in October, 2008 that was denied in that month. Both times the claimant reported she was living with her son and purchasing and preparing food together with him. Why the caseworkers handling these applications would not notify the caseworker of claimant's son that she was living with him and part of his FAP household is unknown.

In conclusion, claimant has requested a hearing on the issue of denied October, 2008 FAP application. Department cannot show that a DHS-1150 denying this application was issued to the claimant. Policy requires issuance of DHS-1150 when request for assistance is denied, and department's action cannot therefore be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's FAP application in October, 2008.

Accordingly, department's action is REVERSED. Department shall:

1. Schedule an appointment for claimant's son to have the claimant added to his FAP case.
2. If all of the information needed to complete such addition is either contained in the existing records or received from the claimant and/or her son, add the claimant to her son's FAP benefits effective November 1, 2008, in accordance with departmental policy on FAP member adds.
3. Issue the claimant's son any retroactive FAP benefits back to November 1, 2008, he did not receive as a result of department's failure to act on reported change, the fact that the claimant should have been part of his FAP group.

SO ORDERED.

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

Date Signed: March 10, 2009

Date Mailed: March 11, 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.

[REDACTED]

cc:

[REDACTED]