

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.: 2010-22103
Issue No.: 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 22, 2010
Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on March 22, 2010. Claimant appeared and testified. On behalf of the Department of Human Services (DHS),

[REDACTED]
[REDACTED], appeared and testified.

ISSUE

Whether DHS properly included Claimant's wife's income in determining Claimant's eligibility for the Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant is married to [REDACTED] and lived with her in the family home on October 2, 2009.
2. On October 2, 2009, Claimant applied online for FAP benefits. Claimant's Application requested benefits for himself, his wife and children, and answered the question regarding spousal residence, that his wife lived with him in the family home.
3. Claimant's countable income, including his wife's earnings, exceeded the gross income limit.
4. As a result of counting the wife's income, Claimant's income failed to meet the gross income test, and Claimant's request for FAP benefits was denied.
5. Claimant filed a request for a hearing on December 11, 2009.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP), formerly known as the Food Stamp Program, was established by the Food Stamp Act of 1977 and is implemented by the Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. The DHS FAP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

Claimant asserts he is separated from his wife, although they are legally married and live together in the one household.

BEM 212, "Food Assistance Program Group Composition," states that:

Relationships – Spouses


Spouses who are legally married and live together **must** be in the same group. BEM 212, p. 1 of 11. (Bold print in original.)

Based on the findings of fact above, I find that DHS followed BEM 212 in this case by including Claimant's wife in the family group. Claimant is legally married and lives with his wife. As set forth in BEM 212, spouses in this relationship must be considered in one group.

I AFFIRM the DHS denial of FAP benefits to Claimant. I conclude that BEM 212 requires DHS to act in the manner in which it has acted in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, AFFIRMS DHS' denial of FAP benefits to Claimant. The Department need take no further action.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 30, 2010

Date Mailed: April 2, 2010

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

JL/pf

cc:

