

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: 201020801
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 25, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on March 25, 2010.

ISSUE

Did the Department correctly include claimant's wife and her income in his FAP group composition?

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 Wayne County recipient.
- (2) Claimant's wife was a member of the FAP group.
- (3) Claimant told DHS that he did not live with his wife.
- (4) Claimant's wife purports to live in a separate house from the claimant.

- (5) Claimant's wife is on deed to the property claimant lives at.
- (6) Claimant's wife uses claimant's address as her mailing address.
- (7) Claimant offered no hard evidence to support his contention that his wife does not live at the same residence.
- (8) The Department found claimant and his wife to be part of the same group.
- (9) This finding, used to include claimant's income in the group, eliminated claimant's FAP grant.
- (10) Claimant filed for hearing on February 2, 2010, alleging that DHS incorrectly computed his budgets by including his wife in the FAP group.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Spouses who are legally married and live together must be in the same FAP group. BEM 212.

Therefore, for the purposes of the current case, a determination must be made as to whether claimant's wife lives with the claimant.

Claimant was adamant at hearing that he did not live with his wife. The Administrative Law Judge does not find this allegation credible.

Claimant stated that his wife lived at a separate address, though his wife still used claimant's house as her mailing address. Claimant's wife's name was also on the deed to the claimant's house. Claimant's Social Security checks, and therefore, the address she had on file with the Social Security Administration, were sent to the claimant's address. Claimant was unable to offer any evidence to rebut this contention, beyond his own assurances that his wife did not live with him. Given that claimant seemed to tell several different versions of events during the course of the hearing, and given that the hearing was the first time any party had heard of claimant's wife living at a separate address, the undersigned finds claimant's testimony less than credible.

Therefore, as the weight of the evidence at hand shows that claimant's wife lives with the claimant, and given that no evidence was offered to show claimant's wife residing at a different address, the undersigned must find that claimant's wife resides with the claimant and that the FAP group composition was determined correctly.

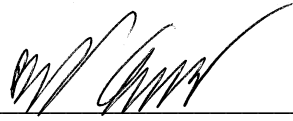
If the group composition was determined correctly, the undersigned must hold that the Department was correct to use claimant's wife's income in their FAP budget calculations. The undersigned has reviewed that budget and was unable to find any errors.

Therefore, the Administrative Law Judge holds that the Department was correct in their budget determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was correct when it included both claimant and his wife in the same benefit group. The Department's budget calculations were also correct.

Accordingly, the Department's decision is, hereby, AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/15/10

Date Mailed: 06/18/10

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.

RJC/dj

cc:

