

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: 2010-29246

Issue No: 3003, 3014

Case No:

Load No:

Hearing Date:

April 27, 2010

Calhoun 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 Lansing, Michigan on April 27, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (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) On March 15, 2010, Claimant applied for FAP benefits.
- (2) Claimant, 18, marked on the application that he was in high school, that he had no income, that he was homeless/lived in a house. He stated that he lived with Pam Hursley/friend –

“Aunt”, not blood. Claimant answered yes to the question – “Does everyone in the household buy food or fix and eat meals together?” (Exhibits 1-4, 11-12, 18-33)

(3) The Department included Ms. Hursley’s income and that of her spouse in the FAP budget because the “family” purchased, prepared and eat together. As a result, Claimant had excess income for FAP benefits. (Exhibits 5-7)

(4) On March 22, 2010, the Department mailed Claimant a Notice of Case Action which informed him that he was not eligible for FAP benefits. (Exhibits 9-10)

(5) On March 30, 2010, the Department received Claimant’s hearing request.

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

FAP group composition is established by determining who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the person(s) resides in an eligible living situation. The relationships of the people who live together affects whether they must be included or excluded from the group. Spouses who are legally married and live together must be in the same 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. A person acting as a parent and the children for whom he acts as a parent who live with him must be in the same group. BEM 212, p.1

If it is not a mandatory group member situation, it must be determined if the people live together and purchase and prepare food together or separately. BEM 212, p.1

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. Persons who share only an access area (e.g., entrance or hallway) or non-living area (e.g., laundry) are not considered living together. BEM 212, p.2

A person who is temporarily absent from the group is considered to be living in the home. A person's absence is temporary if:

- His location is known; and
- He lived with the group before the absence (newborns are considered to have lived with the group); and
- There is a definite plan for his return; and
- The absence has lasted or is expected to last 30 days or less. BEM 212, p.2

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.
- . they share the preparation of food, regardless of who paid for it.
- . 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 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

- Qualifies for other cash assistance
- Secures some other source of income BEM 212, p.4-5

In the instant case, the Department's position, after hearing testimony and reviewing policy, is that Claimant (an 18 year old living with unrelated adults and attending high school) would meet the criteria to be considered a separate household. However, with that said, that it acted in accordance with policy in denying Claimant's application due to excess income based on the information it had available to it at that time of application - it did not know that it was Claimant's intent to purchase separately once approved for benefits.

I concur with the Department that Claimant would meet the criteria to be considered a separate household. I, however, believe the Department had enough information at the time of application to make that determination or certainly, at the very least, it had enough information (18, high school, living with unrelated adults, "homeless", no income, etc.) to ask the questions that were asked at hearing that revealed the information that the Department felt it was missing.

With the above said, I do not find that the Department established that it acted in accordance policy in computing Claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in computing Claimant's FAP benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- (1) Process Claimant's application from the original application date with a group size of 1 - Claimant.
- (2) Issue Claimant supplemental benefits he is entitled to, if any.
- (3) Notify Claimant in writing of the Department's revised determination.
- (4) Claimant retains the right to request a hearing if he would like to contest the Department's revised determination.

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

Date Signed: May 5, 2010

Date Mailed: May 6, 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 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.

SB/lk

cc:

