

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: 20106915

Issue No: 3014

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

January 4, 2010

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 January 4, 2010. The Claimant appeared and testified. Karen Brenner, FIM and Perdita Terry, ES, appeared on behalf of the Department.

ISSUES

Whether the Department properly denied the Claimant's Food Assistance ("FAP") benefits based on the income of Claimant and her disabled son.

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 8/5/09, Claimant applied for FAP and MA benefits for herself and her son. (Exhibit 1, pp. 3-4).
2. Claimant was awarded FAP benefits effective 9/1/09.

3. On her 8/5/09 application, Claimant indicated that her adult, special needs son was living in the household. (Exhibit 1, p. 4).
4. Claimant's adult son is unable to speak, walk or cook for himself.
5. Claimant testified that she and her mother share guardianship and caretaking of Claimant's adult disabled son.
6. Claimant testified that one family member in the house will go buy groceries, but people have their own food set aside within the household as they prefer to eat different things.
7. Claimant testified that she receives \$1,579.00 in RSDI and her adult disabled son receives \$1,511.00 in RSDI.
8. On Review, the Department calculated FAP benefits based on the unearned income of both the Claimant and her adult son. (Exhibit 1, p. 7).
9. As a result, Claimant's FAP benefits were terminated effective 11/1/09 due to excess income. (Exhibit 1, p. 1).
10. The Department received Claimant's hearing request on November 2, 2009 protesting the cancellation of FAP benefits.

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")/Bridges Administrative

Manual (“BAM”), the Program Eligibility Manual (“PEM”)/Bridges Eligibility Manual (“BEM”), and the Program Reference Manual (“PRM”).

FAP benefits are paid based on an individual’s family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People included in the group include spouses and children (natural, step and adopted) who purchase and prepare food together. 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. BEM/PEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. In order to determine a group composition, the Department must first determine if the individual must be included in the group. If they are not mandatory group members, the Department must determine if the individuals purchase and prepare food together or separately. BEM/PEM 212, p. 1. 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 FAP group.

The federal regulations define household income to include all earned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM/PEM 550.

In the subject case, Claimant’s testimony revealed that all household members contribute to the purchase of food. Different family members will also prepare food. Claimant testified

that different family members have their own food set aside in separate locations within two refrigerators in the house and everyone knows whose food is whose. Yet Claimant's testimony revealed that the family members eat at least partially from the same food supply, especially when common meals are cooked. Furthermore, different family members (and sometimes outside sources) cook and feed Claimant's adult disabled son. The undersigned finds that Claimant and her adult disabled son purchase and prepare food together. This is supported by Claimant's application where she applied for FAP benefits for both herself and her son.

Accordingly, both incomes were properly used in the FAP calculation. In the present case, according to the aforementioned policy on budgeting, for the 11/1/09 budget, Claimant's group had a net monthly gross income of \$3,067.00 from the following sources:

RSDI- Claimant	\$1,579.00/month
RSDI - Son.....	\$1,511.00/month

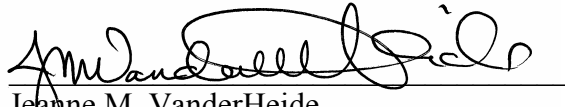
As a result, Claimant's group income is over the income limits of \$1,579.00 per month for a group size of two (2) people. RFT 250. Therefore, Claimant does not qualify for FAP benefits. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

It should be noted that Claimant and/or her adult disabled son can reapply for benefits based on a change in household membership at any time. Claimant may be required to provide evidence showing that her adult son is no longer living in the household or sharing in the purchase or preparation of food upon reapplication.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly terminated Claimant's FAP benefits based on excess income.

Accordingly, the Department's FAP eligibility determination is AFFIRMED.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/19/10

Date Mailed: 01/20/10

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.

JV/dj

cc:

