

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-33900  
Issue No: 3003;3014  
Case No: [REDACTED]  
Hearing Date: July 12, 2011  
Kent County DHS

**Administrative Law Judge:** Mark A. Meyer

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1979 AC, R 400.903. Claimant requested a hearing on May 9, 2011, and, after due notice, one was held on July 12, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

**ISSUE**

In dispute was whether the Department properly determined Claimant's Food Assistance Program (FAP) benefits group composition.

**FINDINGS OF FACT**

Based on the competent, material, and substantial evidence on the whole record, the Administrative Law Judge finds as relevant fact:

1. At all times relevant to this matter, Claimant was receiving FAP benefits. Her FAP group size was one, comprised only of herself.
2. On February 12, 2010, Claimant and [REDACTED] were married in a Kent County civil ceremony. (Department's Exhibits D-1; D-4.)
3. In April 2011, the Department became aware that Claimant and [REDACTED] were married and living together. (Department's hearing summary, dated May 19, 2011; Department's Exhibit D-1; Department's Exhibit 4.)<sup>1</sup>

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<sup>1</sup> It is noted that the Department of Human Services' (the Department's) Exhibit D-4 was not presented at the time of hearing. At that time, however, the record was kept open to provide both parties the opportunity to submit additional documentation. Because the Exhibit was timely submitted and directly relevant to the issue in dispute, it was accepted and placed into the record.

4. Claimant failed to report this information to the Department. (Department's hearing summary; Department representative's hearing testimony, July 12, 2011.)
5. Once the Department discovered that Claimant failed to report her marriage to [REDACTED], he was added to her FAP group composition as a mandatory member. (Department's Exhibit D-3; Department's hearing summary; Department representative's hearing testimony, July 12, 2011.)
6. The result of adding [REDACTED] to Claimant's FAP budget was to make her eligible for benefits in the amount of [REDACTED] per month, effective June 1, 2011. This represented an increase in benefits amount for Claimant. (Department's Exhibit D-3.)
7. A notice of the Department's action was sent to Claimant on May 5, 2011. (Department's Exhibit D-3.)
8. From this notice, Claimant filed a request for hearing. (Claimant's hearing request, dated May 9, 2011.)
9. Claimant asserted that she was not married to [REDACTED] at any point in time. (Claimant's hearing testimony, July 12, 2011.)

### **CONCLUSIONS OF LAW**

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1979 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). An applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.<sup>2</sup>

Here, the Department asserted that Claimant was married to [REDACTED] [REDACTED] in February 2010, and that she failed to report this change in circumstances. The agency then recalculated Claimant's FAP budget, which resulted in combining Claimant and [REDACTED]. [REDACTED] into a single FAP benefits group. This recalculation actually resulted in an increase of Claimant's monthly FAP benefits to [REDACTED] per month, effective June 1, 2011. From this determination, Claimant filed a request for hearing. A timely notice of hearing was subsequently issued.

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<sup>2</sup> All citations are to Department policy in effect at the time of the agency action in issue.

FAP – formerly known as the Food Stamp Program – was established by the Food Stamp Act of 1977, 7 USC 2011, *et seq.*, as amended, and is implemented through federal regulations found in the Code of Federal Regulations (CFR), 7 CFR 273.1 *et seq.* The Department administers the FAP under MCL 400.10, *et seq.*, and Rules 400.3001 through 400.3015. Agency policies pertaining to the FAP for the period in issue are found in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The goal of the FAP is to ensure sound nutrition among children and adults. BEM 230B, p. 1.

The relationship of the people who live together affects whether they must be included or excluded from the FAP benefits group. BEM 212, p. 1. First, it must be determined if persons are mandatory members of the group. BEM 212, p. 1. For example, spouses who are legally married and live together *must be in the same benefits group*. BEM 212, p. 1.

Here, the sole issue in dispute was whether Claimant was married to [REDACTED]. (It was undisputed that they lived together – although Claimant contended that [REDACTED] merely rented a room from her at the same residence.) According to the Department, the couple were married in February 2010 and were thus required to be in the same FAP benefits group; Claimant emphatically contended that she was never married to [REDACTED]. The evidence in this matter, however, preponderated in the agency's favor.

Claimant testified that since the mid-1990s she was married to [REDACTED]. According to Claimant, the couple was separated and she filed for divorce from [REDACTED]. In support of this assertion, Claimant provided a copy of a summons and complaint, issued June 5, 2009, naming her as the plaintiff and [REDACTED] as the defendant; the actual complaint was not provided.

Claimant further provided a handwritten note, purportedly signed by her adult son, which stated in part:

[I] did not say [to the Department's caseworker] my mom was married[.] [A]ll I talk [sic] about is [sic] me[.] . . . [D]id not talk about my mom[.] do not no [sic] want [sic] is going on! [Claimant's Exhibit C-2.]

This document was not in the form of an affidavit (i.e., it contained no sworn or affirmed statements). Furthermore, it failed to provide any dispositive information pertaining to who Claimant was married to, if anyone at all.

Claimant also provided a copy of a Michigan operator license with the name [REDACTED], and indicating an expiration date of June 10, 2011. (Claimant's Exhibit C-3.) A copy of a social security card also provided the name of [REDACTED]. (Claimant's

Exhibit C-4.)<sup>3</sup> At hearing, Claimant vehemently denied that she was ever married to [REDACTED].

The Department, on the other hand, provided documentation that Claimant and [REDACTED] were actually married on February 12, 2010. Department's Exhibit D-1 was a computer printout obtained from the Kent County Vital Records Department; this document stated that the date on which the couple was married was February 12, 2010. The agency also submitted a copy of a utilities bill demonstrating that Claimant used the name of [REDACTED] in opening the account. According to Claimant, she could not open up an account in her own name (i.e., of [REDACTED]) because of an existing delinquent account with the utilities company – according to Claimant, this was common and acceptable practice.

Finally, the best available piece of evidence in this matter was a copy of a marriage license and certificate of marriage establishing that on February 12, 2010, Claimant and [REDACTED] were married in a civil service before [REDACTED].

It is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996). The fact-finder's prerogative to disbelieve testimony is well established. *Taylor v Mobley*, 279 Mich App 309; 760 NW2d 234 (2008); *Strach v St. John Hospital Corp*, 160 Mich App 251, 271; 408 NW2d 441 (1987), citing *Baldwin v Nall*, 323 Mich 25, 29; 34 NW2d 539 (1948). See also *Harvey v Office of Banks & Real Estate*, 377 F 3d 698, 712 (CA 7, 2004); *Kasper v St. Mary of Nazareth Hospital*, 135 F 3d 1170, 1173 (CA 7, 1998).

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

Here, the credibility of Claimant's testimony was first placed in doubt when she admitted to using a false last name (coincidentally that of [REDACTED]) to obtain a utilities account. More significantly damaging to her credibility, however, was the existence of a copy of her marriage certificate to [REDACTED], despite her testimony that, while the couple may have applied for a marriage license, they were never married.

Claimant's adamant testimony, and the documents she submitted in support thereof, cannot reasonably overcome the documentary evidence provided by the Department in

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<sup>3</sup> It is noted that Claimant also provided a document purporting to contain a copy of another Michigan operator license. The entire face of this license was undecipherable and was therefore not admitted into the record.

this matter. Based on this evidence, it is concluded that Claimant and [REDACTED] were actually married to each other, and living together, during the time period in issue.

**DECISION AND ORDER**

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department acted in accordance with established policy when it included [REDACTED] within Claimant's FAP benefits group, effective June 1, 2011.

The Department's action is UPHELD.

It is SO ORDERED.

/s/ \_\_\_\_\_  
Mark A. Meyer  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

**Date Signed: July 19, 2011**

**Date Mailed: July 20, 2011**

**NOTICE:** Respondent may appeal this decision and order within 60 days of the above mailing date. The appeal may be made to the circuit court for the county in which Respondent resides or has his or her principal place of business in this State, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the above mailing date, may order a rehearing.

MAM/sc

cc: [REDACTED]