

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-45286  
Issue No.: 3014  
Case No.: [REDACTED]  
Hearing Date: August 24, 2011  
Oakland County DHS

**ADMINISTRATIVE LAW JUDGE:** Susan Burke

**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 held on August 24, 2011 in Detroit, Michigan. Claimant appeared and testified. [REDACTED] assisted Claimant in interpretation. The Department of Human Services (Department) was represented by [REDACTED] Assistance Payments Worker, and [REDACTED] AP Supervisor.

**ISSUE**

Was the Department correct in its decision to include Claimant's daughter and son in his Food Assistance Program (FAP) group?

**FINDINGS OF FACT**

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

1. Since 2009, Claimant was an ongoing FAP recipient in a household of three, consisting of Claimant, Claimant's son, age [REDACTED], and Claimant's daughter, age [REDACTED].
2. Claimant's FAP benefits decreased due to the group's income increase in July 2011.

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3. On July 21, 2011, Claimant notified the Department that he was now in a separate group from his two children, as he was purchasing and preparing food separately from his children.
4. After the Department further investigated Claimant's case, the Department determined that Claimant was purchasing and preparing food with his two children, determined that Claimant was part of a group size of three, and issued Claimant FAP benefits based on a group size of three.
5. Claimant has high blood pressure and high cholesterol and he has adopted a diet to address those issues and cooks for himself.
6. Claimant's children generally eat outside of the house at restaurants, as they attend school and work outside of the home.
7. Claimant's children occasionally eat the same food as Claimant.
8. Claimant requested a hearing, protesting the amount of FAP benefits, on July 17, 2011.

### 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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

BEM 212, p. 1 instructs:

**Living with** 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 4, 5, instructs:

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 FAP group. BEM 212.

In the present case, Claimant does not dispute that he lives with his son, age [REDACTED] and his daughter, age [REDACTED]. Claimant states, however, that he must eat different food than his son and daughter due to his medical condition of high blood pressure and high cholesterol. Claimant states that sometimes he does share food with his children. The investigator retained by the Department stated the Claimant's daughter told the investigator that she does not prepare all of her father's meals because she works and attends school. Claimant's daughter stated that she and her brother prefer to purchase food from restaurants, and, because of her father's health problems, her father has to eat healthier foods.

I am not convinced by the Department that the elements of BEM 212 delineated above have been proven by the Department. Other than on occasion, it appears that Claimant purchases different food than his children, Claimant prepares his food separate from his children, and Claimant and his children eat from a different food supply. It is noted that Claimant asked to be separated from his children when a decrease in FAP benefits occurred, and although this does raise suspicion, the investigator's findings did not prove that Claimant and his children purchase and prepare food together. Based on the above discussion, I find that the Department was not correct in its decision to include Claimant's children in his FAP group.

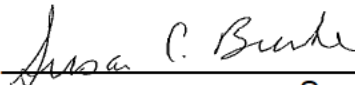
### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that the Department was not correct in its decision to include Claimant's children in his FAP group, and it is therefore ORDERED that the Department's decision is REVERSED.

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It is further ORDERED that the Department shall:

- 1.) Initiate recalculation of Claimant's FAP benefits based on a group size of one, excluding Claimant's children, effective July 21, 2011.
- 2.) Issue any increased FAP benefits from July 21, 2011 and ongoing in the form of a supplement.

  
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Susan Burke  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 8/29/11

Date Mailed: 8/29/11

**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 of the rehearing decision.

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