

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-34042
Issue No.: 1000; 3014; 3015
Case No.: [REDACTED]
Hearing Date: June 14, 2011
Macomb 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 June 14, 2011. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED] ES.

ISSUE

Was the Department correct in its decision to include Claimant's parents in her Food Assistance Program (FAP) group?

Was the Department correct in denying Claimant's FAP application due to excess income?

Did the Department take negative action regarding Claimant's request for hearing on Cash Assistance?

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 applied for FAP.
2. Claimant's birth date is [REDACTED]
3. Claimant is pregnant.
4. Claimant lives in the same home as her parents.

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5. Claimant's mother receives unemployment income of \$724.00 every two weeks.
6. Claimant's father receives RSDI benefits of \$1,189.50 per month.
7. On May 4, 2011, the Department denied Claimant's FAP application due to excess income.
8. On May 10, 2011, Claimant requested a hearing on the denial of her FAP application.
9. Claimant also requested a hearing on Cash Assistance, but Claimant had not applied for Cash Assistance.

CONCLUSIONS OF LAW

Food Assistance Program (FAP)

FAP 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 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 Program Reference Manual, which includes the Reference Tables (RFT).

BEM 212, p. 1, dictates:

FAP group composition is established by determining:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation (see Living Situations).

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they

are **not** mandatory group members, then determine if they purchase and prepare food together or separately.

Parents and Children

Children include natural, step and adopted children.

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.

The federal regulations define household income to include SSI and RSDI benefits, as well as earned income. 7 CFR 273.9(b) Under 7 CFR 273.9, as amended, and RFT 255, \$141.00 is deducted from the gross income of FAP recipients in a group size of three in determining FAP grants. Under 7 CFR 273.9, deductions for excess shelter and medical expenses are also allowed. BEM 554.

In the present case, the Department was correct in including Claimant's parents in her FAP group, as Claimant admits that she lives in their residence. Claimant states that her parents do not assist her other than allowing her to stay in their residence and paying her car insurance. However, Department Policy dictates that, "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." Claimant is 21 years of age, is pregnant and lives with her parents. Since Claimant and her parents are mandatory group members, whether they purchase or prepare food together is not considered.

The Department included Claimant's parents' income and made the allowable deductions in arriving at a net income for the group of \$2,281.00, which net income exceeds the net income limit of \$1,526.00 found in RFT \$250.00. Therefore, the Department was correct in denying Claimant's FAP application due to excess income.

CASH ASSISTANCE

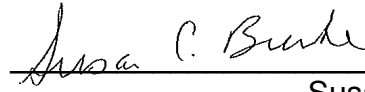
The regulations governing hearing and appeals for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code. MAC R 400.901-.951. MAC R 400.903 reads in part: "An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department of Human Services (department) action resulting in suspension, reduction, discontinuance, or termination of assistance."

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In the present case, Claimant did not apply for Cash Assistance. Therefore, no negative action was taken by the Department with respect to Cash Assistance, and no decision need be made with respect to that program at this time.

DECISION AND ORDER

Based upon the above findings of fact and conclusions of law, it is concluded that the Department was correct in its decision to include Claimants' parents in her FAP group and to deny Claimant's FAP application due to excess income, and it is therefore ORDERED that the Department's decision is AFFIRMED. It is further ORDERED that Claimant's request for hearing on Cash Assistance is DISMISSED pursuant to MAC R 400. 903.



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

Date Signed: 6/21/11

Date Mailed: 6/21/11

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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