

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201214446
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: April 12, 2012
County: Macomb DHS (36)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 12, 2012 from Detroit, Michigan. Participants on behalf of Claimant included the above named claimant and [REDACTED]. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Food Assistance Program (FAP) benefits based on group composition standards.

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 10/4/11, Claimant applied for FAP benefits.
2. Claimant was part of a household that included himself and his mother.
3. The Assistance Application dated 10/4/11 asked Claimant, "Does everyone in the household buy food and fix or eat meals together?"
4. Claimant responded "Yes" to the above question.
5. In response to the Assistance Application question, DHS added Claimant to his mother's ongoing FAP benefit case.

6. On an unspecified date, DHS denied Claimant's application for FAP benefits on the basis that he was an ongoing FAP benefit recipient on his mother's FAP benefit case.
7. On 11/14/11, Claimant requested a hearing to dispute the denial of the FAP benefit application dated 10/4/11.

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

In the present case, DHS determined that Claimant was not entitled to a FAP benefit determination for himself because of his response to the application question, "Does everyone in the household buy food and fix or eat meals together?" It was not disputed that Claimant answered the question, "Yes". DHS contended that Claimant's affirmative response is sufficient to establish that he and his mother belong in the same FAP benefit group. If the DHS contention is correct then a person that either ate meals with other household members OR bought and fixed food with other household members would justify combining household members into the same FAP benefit group.

Group composition issues are determined by DHS regulations; they are not resolved by the wording of application questions. Thus, the analysis will begin with a look at DHS regulations of FAP benefit group composition.

FAP group composition is established by determining all of the following:

- Who lives together.
- The relationship(s) of the people who live together.
- Whether the people living together purchase and prepare food together or separately.
- Whether the person(s) resides in an eligible living situation. BEM 212 at 1.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. *Id.* DHS is to first, determine if household members must be included in the group. *Id.* If they are not mandatory group members, then determine if they purchase and prepare food together or separately. *Id.*

Looking at the above policy, the phrase "purchase and prepare" is a determining factor in FAP benefit group composition. "Purchase and prepare", taken literally, strongly suggests that persons within a household should be part of a FAP group only if they

purchase AND prepare food together; thus, purchasing food separately but preparing it together (or vice-versa) would not meet the purchase and prepare requirement. If DHS intended to mean that purchasing or preparing food together brought members into the same FAP benefit group, the phrase “purchase or prepare food” should have been adopted.

DHS somewhat clarifies the “purchase and prepare” statement elsewhere in their regulations. The phrase is meant to describe persons who customarily share food in common. *Id.* at 5. 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. *Id.*

In general, persons who live together and purchase and prepare food together are members of the FAP group. *Id.*

Claimant and his mother each testified that they share a house but not a food supply. Claimant noted that he affirmatively answered the application question because he eats meals with his mother but he neither buys nor prepares food with his mother. Though the application question at issue is concerned with whether persons in the household eat food together, DHS regulations do not factor that into group composition. Thus, DHS created an application question which does not adequately clarify group composition. Claimant’s testimony adequately clarified his FAP benefit group composition. Because Claimant credibly testified that he neither buys nor prepares food with his mother, Claimant is entitled to a FAP benefit group determination on his own FAP benefit case. Accordingly, the DHS denial of Claimant’s FAP benefit application was improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when
 did not act properly in denying Claimant’s FAP benefit application dated 10/4/11.

Accordingly, the Department’s AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. reinstate Claimant’s FAP benefit application dated 10/4/11;
2. process Claimant’s FAP benefit eligibility based on the finding that Claimant buys and prepares food separately from other household members; and
3. supplement Claimant for any FAP benefits not received as a result of the

improper application denial.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 16, 2012

Date Mailed: April 16, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

