

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201222497
Issue Code: 3014
Case No: [REDACTED]
Hearing Date: February 1, 2012
Kent County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

HEARING DECISION

This matter is before me 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 February 1, 2012. The Claimant and Department appeared by telephone and provided testimony.

ISSUE

Did the Department properly include the Claimant's husband Andre Welch as a group member when they determined the Claimant's eligibility for Family Assistance Program (FAP) benefits?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

1. As of January 1, 2011, the Claimant received FAP benefits.
2. In September of 2011, Office of Inspector General (OIG) Agent [REDACTED] visited the address [REDACTED]. While at the address, Agent Mandreky spoke to a [REDACTED] who identified [REDACTED] as his uncle. [REDACTED] told [REDACTED] his uncle [REDACTED] lived with his wife [REDACTED] up the street on [REDACTED] (Department Exhibit A, p. 3).
3. As of January 4, 2012, the Bridges interface with the Social Security Administration showed Mr. Welch as having an address at [REDACTED].
4. On December 17, 2011, the Department sent the Claimant a Notice of Case Action. (Department Exhibit A, pp. 4-6).

5. On December 27, 2011, the Claimant requested a hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The FAP (formerly known as the Food Stamp (FS) program) was 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 MCL 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).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. (BAM 105). This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105.

Bridges assists the Department in determining who must be included in the FAP group. The FAP group composition is established by determining BEM 212:

- 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) reside in an eligible living situation.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. Spouses who are legally married and live together must be in the same group. 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 212.

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.

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.

Based on the testimony and evidence presented, I find the Department witnesses to be more credible than the Claimant. The Department witnesses had a clearer grasp of the dates, times and events in question. In addition, I found the Claimant to be argumentative, obnoxious, aggressive and rude. Furthermore, the Claimant refused to answer my question regarding her marital status and indicated it wasn't an issue in this case.

Based on the evidence presented, I find the Department properly determined the Claimant's husband ██████████ to be a countable person for the Claimant's FAP group.

Accordingly, I **AFFIRM** the Agency's actions in this matter.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, the Department properly included Mr. Welch in the Claimant's group for FAP benefits.

Accordingly, the Department's actions are **AFFIRMED**.

/s/
Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 2, 2012

Date Mailed: February 2, 2012

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

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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.

CAA/cr

cc:

