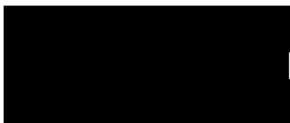


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE

IN THE MATTER OF:



Reg. No: 201232238
Issue Code: 3014
Case No: [REDACTED]
Hearing Date: March 13, 2012
Wayne 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 March 13, 2012. The Claimant and Department appeared by telephone and provided testimony.

ISSUE

Did the Department properly remove the Claimant's two children from the Claimant's Food Assistance Program (FAP) group.

FINDINGS OF FACT

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

1. From January 19, 2012 through January 23, 2012, the Office of Inspector General (OIG) conducted an investigation regarding the residence of the Claimant's two children.
2. On January 24, 2012, the Department removed the Claimant's two children from the Claimant's FAP group.
3. On January 24, 2012, the Department sent the Claimant a notice of case action. The notice indicated the Claimant's FAP group size was reduced because the Claimant's children were no longer living in the Claimant's home.
4. On February 1, 2012, the Claimant requested a hearing in protest of the January 24, 2012 notice of case action.

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 found very little evidence to indicate the Claimant's children did not live with her. The Department relied heavily upon statements given to them by the grandparents living at the Oak Park address. The grandparents at the Oak Park address have an interest in the outcome of this matter, and therefore, should have participated in the hearing and provided testimony. Absent the testimony from the grandparents living at the Oak Park address, I find that more likely than not, the children in question resided with the Claimant at the time the Department took the action they did.

Based on the evidence presented, I find the Department improperly removed the Claimant's children from her FAP group.

Accordingly, I **REVERSE** 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 improperly removed the Children from the Claimant's FAP group.

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

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

1. Redetermine the Claimant's FAP group beginning January 24, 2012 and issue retroactive benefits if otherwise eligible and qualified.

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

Date Signed: March 14, 2012
Date Mailed: March 15, 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 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:

