

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201257681  
Issue No: 3014  
Case No: [REDACTED]  
Hearing Date: July 11, 2012  
Eaton County DHS

**ADMINISTRATIVE LAW JUDGE:** Christopher S. Saunders

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 11, 2012. The claimant personally appeared but did not provide testimony. The claimant was represented by his son and authorized representative, [REDACTED], who provided testimony on the claimant's behalf.

**ISSUE**

Whether the department properly included the claimant's son in his Food Assistance Program (FAP) group and, in turn, determined that the claimant was over the allowable income limit for the program?

**FINDINGS OF FACT**

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

1. The claimant was a recipient of FAP benefits prior to the closure of his case.
2. On May 22, 2012, the claimant submitted a completed redetermination (DHS 1010) to the department. (Department Exhibits 4-7).
3. On June 1, 2012, the department conducted a telephone interview with the claimant regarding his redetermination.
4. When the claimant submitted his redetermination, he stated that his son lived with him but that they purchased and prepared food separately. (Department Exhibit 5).
5. A redetermination interview was conducted with the claimant via telephone on June 1, 2012. (Department Exhibit 4).

6. During the interview, the worker from the department determined that the claimant and his son did purchase and prepare meals together. (Department Exhibit 5).
7. Based on the department determination that the claimant and his son purchased and prepared meals together, a new FAP budget was run which included the claimant's son's income, as he was added as a member of the claimant's group. (Department Exhibits 37-39).
8. Based on the new budget, the claimant was determined to be over the income limit for FAP benefits and in turn was sent a notice of case action (DHS 1605) on June 5, 2012, stating that his FAP case would be closed effective July 1, 2012. (Department Exhibits 42-47).
9. The claimant filed a request for hearing on June 8, 2012, protesting the closure of his FAP case.

### **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 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 (DHS or 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).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted

may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505. In calculating a claimant's budget, the department is to use gross income. Gross income is income is the amount of income before any deductions such as taxes or garnishments. BEM 500.

In determining which income must be counted to determine eligibility, the department must also determine a claimant's group composition. Policy states that individuals who live together and purchase and prepare food together must be included in the same FAP group. BEM 212.

In this case, the claimant stated on his redetermination form that his son was now living with him and they did not purchase and prepare meals together. He also indicated on the redetermination that he wanted his redetermination interview to be conducted in person (see Department exhibit 4). The interview was not conducted in person, rather it was conducted over the phone. The department representative testified that during the interview, the claimant indicated that he and his son purchased and prepared meals together. However, at the hearing the claimant's son testified that there is somewhat of a language barrier with his father. He testified that his father's English is not very good, but that he can get by. He further testified that he and his father did not purchase and prepare meals together when they were living together. The department representative testified that he thought there may have been a bit of a language barrier, but that he did not think that the language barrier was such that the claimant was not able to understand the questions asked during the redetermination interview.

Policy states that redetermination interviews for FAP may be conducted over the phone. Policy also directs that an in person interview is to be conducted if a client requests one. BAM 210. Policy also states that in terms of providing assistance to claimants, particular sensitivity is to be shown to claimants who are not fluent in English. BAM 105. In this case, it is clear that the claimant is not fluent in English and that the claimant requested that his redetermination interview be conducted in person. Accordingly, the Administrative Law Judge determines that the department did not follow policy in completing the claimant's redetermination. Therefore, the department did not act properly in accordance with policy in terminating the claimant's FAP case.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's FAP case.

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

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's FAP eligibility back to the date of negative action (July 1, 2012). The department shall conduct an in person interview as per the claimant's request. Based on the information obtained through the interview, the department shall determine eligibility for FAP benefits in accordance with policy. If the claimant is found to be otherwise eligible, the department shall reinstate benefits and, if applicable, issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

/s/

Christopher S. Saunders  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: July 20, 2012

Date Mailed: July 20, 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.

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