

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-24922
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: February 9, 2012
County: Clare

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 February 9, 2012 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's son). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department properly determine Claimant's Food Assistance Program (FAP) group composition?

FINDINGS OF FACT

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

1. Claimant was an active FAP recipient with a monthly FAP allotment of [REDACTED].
2. At all relevant times, Claimant lived with her son ([REDACTED]), who had a separate FAP case [REDACTED].
3. On December 8, 2011, Office of Inspector General (OIG) agent [REDACTED] conducted a home visit of Claimant's residence.
4. During the home visit, the OIG agent observed that Claimant and her son use separate freezers but they do not have separate food cabinets. The OIG agent also observed only one kitchen table and one refrigerator.

5. During the visit, Claimant's son stated that he and Claimant eat and prepare food together.
6. On December 9, 2011, the Department sent Claimant a Notice of Case Action (DHS-1605) which closed Claimant's FAP case ([REDACTED]) and added Claimant's son to her FAP group under case [REDACTED] because Claimant and her son were considered to be a single group.
7. On January 5, 2012, Claimant filed a hearing request, protesting the closure of the case.

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 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 Program Reference Manual (BRM).

The Department is required to determine who must be included in the FAP group prior to evaluating the nonfinancial and financial eligibility of everyone in the group. BEM 212. FAP group composition is established by determining all of the following: (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; (4) whether the person(s) resides in an eligible living situation. BEM 212.

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. BEM 212. First, the Department will determine if they must be included in the group. BEM 212. If they are not mandatory group members, then the Department will determine if they purchase and prepare food together or separately. BEM 212.

According to Department policy, "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. BEM 212. Persons who share only an access area such as an entrance or hallway or non-living area such as a laundry room are not considered living together. BEM 212.

The phrase "purchase and prepare together", is meant to describe persons who customarily share food in common. BEM 212. Persons customarily share food in common if: (1) they each contribute to the purchase of food; (2) they share the preparation of food, regardless of who paid for it; and (3) they eat from the same food supply, regardless of who paid for it. BEM 212. In general, persons who live together and purchase and prepare food together are members of the FAP group. BEM 212.

Example 1: Sue, age 26 and her sister Mary, age 29 live in the same home. They purchase and prepare their food together. They are one FAP group. Example 2: [REDACTED]

and her two children move in with [REDACTED], Betty's friend. [REDACTED] purchases and prepares food separately from [REDACTED] and her two children. They are two groups for FAP purposes.

Persons who normally purchase and prepare separately maintain that distinction even when they are temporarily sharing food with others. BEM 212. Persons are temporarily sharing food if both of the following are true: (1) they had previously purchased and prepared separately and (2) others are sharing their food until the person is approved for FAP, qualifies for other cash assistance or secures some other source of income. BEM 212.

Here, the issue is whether the Department properly considered Claimant and her son as one FAP group. During the hearing, Claimant's son testified that he and his mother shared the same refrigerator to store his milk container. This Administrative Law Judge finds credible the OIG agent's report that Claimant admitted she and her son do eat and prepare food together. The Administrative Law Judge finds that Claimant and her son do, in fact, purchase and prepare food together. Accordingly, the Department properly considered Claimant and her son as one FAP group.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly added Claimant's son as a member of Claimant's FAP group.

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.

Accordingly, the Department's FAP decision is AFFIRMED for the reasons stated above and for the reasons stated on the record.

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/15/12

Date Mailed: 2/15/12

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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

CAP/ds

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