

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201323969
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: February 26, 2013
County: Wayne #17

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], and [REDACTED] acted as a [REDACTED] for [REDACTED].

ISSUE

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

FINDINGS OF FACT

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

1. The Claimant's [REDACTED] is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant moved in to the [REDACTED] where his [REDACTED] resides.
3. The Claimant is legally [REDACTED] to his [REDACTED].
4. On January 2, 2013, the Department notified the Claimant's [REDACTED] that it determined that the Claimant was a member of her Food Assistance Program (FAP) benefit group.

5. On January 18, 2013, the Department received the Claimant's request for a hearing protesting the Department's determination that he is a member of his spouse's Food Assistance Program (FAP) benefit group.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

The Claimant's [REDACTED] was an ongoing Food Assistance Program (FAP) recipient when the Claimant moved into the [REDACTED] of her [REDACTED]. The Claimant testified that he is separated from his [REDACTED] but that there has been no [REDACTED] or [REDACTED] of the [REDACTED].

The relationships of the people who live together affects whether they must be included or excluded from the group. First, the Department will determine if they must be included in the group. If they are not mandatory group members, then determine if they purchase and prepare food together or separately. Spouses who are legally married and live together must be in the same group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (November 1, 2012), p 1.

Since the Claimant lives in the same residence as his [REDACTED] [REDACTED] the Department is required to include him in the benefit group as a mandatory member. Based on the evidence and testimony available during the hearing, the Department has established that it properly determined the composition of the Claimant's Food Assistance Program (FAP) benefit 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 when it determined the Claimant's benefit group composition. did not act properly when

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

/s/
Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 1, 2013

Date Mailed: March 1, 2013

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

KS/tb

cc:

