

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

IN THE MATTER OF:

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██████████████████████████████

Reg. No.: 2013 48526
Issue No.: 3025
Case No.: ██████████
Hearing Date: June 20, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 June 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, who appeared as an interpreter. Participants on behalf of Department of Human Services (Department) included ██████████, Assistance Payments Supervisor, and ██████████-██████████ ES.

ISSUE

Did the Department properly determine that the Claimant's spouse was not an eligible Food Assistance (FAP) group member?

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 was an ongoing FAP recipient with a FAP group of 5 members.
2. The Department calculated the Claimant's FAP benefits and did not include the Claimant's wife as a group member.
3. The Claimant's spouse is a Permanent Resident Alien but has not resided in the United States for 5 years. Exhibit 1.

4. On May 22, 2013, Claimant filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

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

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 Department calculated the Claimant's FAP benefits and did not include the Claimant's spouse as a FAP group member due to her Resident Alien Status. Exhibit 1

To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (January 1, 2012), p 1. Acceptable alien status includes individuals who are permanent resident aliens and either have been in the U.S. for five years or meet the Social Security Credits (SSC) requirements. BEM 225, pp 3, 8. Permanent resident aliens who have not been in the U.S. for five years are eligible for FAP benefits if their permanent residency cards (I-551) have a class code of RE, AS, SI, AM or SQ. BEM 225, pp 5-6. FAP benefits are also available to persons lawfully residing in the U.S. and currently disabled. BEM 225, p 8. An individual is disabled if he or she receives Supplemental Security Income (SSI), Retirement, Survivors and Disability Insurance (RSDI), or railroad retirement benefits, or MA based on disability or blindness. BEM 225, p 8.

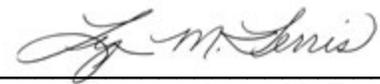
At the hearing, Claimant acknowledged that his wife had not been a U.S. resident for 5 years and that the Claimant's spouse's resident alien card was dated 11/03/09. Therefore, she had been in the U.S. less than five years. The permanent residency cards do not show a class code of RE, AS, SI, AM or SQ. Thus, the Department acted in accordance with Department policy when it excluded Claimant's spouse as a FAP group member.

At the hearing the Claimant indicated that he also no longer wished to review the Department's calculations of his FAP benefits or the budgets provided by the Department, and therefore no issue remains to be decided with regard to the amount of the FAP benefits.

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 acted in accordance with Department policy when it excluded the Claimant's spouse as a FAP group member. The issue regarding the amount of FAP benefits and their calculation are not decided as the Claimant did not wish to proceed with this issue.

Accordingly, it is ORDERED that the Department's FAP decision excluding the Claimant's spouse from the Claimant's FAP group is AFFIRMED, and the issue raised by the Claimant regarding the calculation of the FAP benefits is DISMISSED.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 27, 2013

Date Mailed: June 27, 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

LMF/cl

cc:

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[REDACTED]
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[REDACTED]