

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201314370  
Issue No.: 3008, 3014  
Case No.: [REDACTED]  
Hearing Date: January 10, 2013  
County: Ingham County DHS

**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 January 10, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's father/legal guardian/Authorized Hearing Representative (AHR)), [REDACTED] (Claimant's mother/legal guardian) and Jamie Zick (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

**ISSUE**

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits case?

**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 is disabled<sup>1</sup> and is not able to purchase and prepare her own meals independently.
2. Claimant receives Social Security Income (SSI).
3. At all relevant times, Claimant lived at home with her mother and father.

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<sup>1</sup> According to her parents, Claimant has physical and mental disabilities. At age 13, Claimant had surgery for a brain tumor which resulted in serious vision impairments, poor balance and left hand tremors. Claimant, according to her parents, has also been diagnosed with schizo affective disorder.

4. On or about December 30, 2008, the Department received Claimant's application for FAP. Claimant's application indicates that she and her parents purchase and prepare food together.
5. The Department opened a FAP case for Claimant with a group size of 1 (one) and a monthly allotment of \$200.00.
6. On November 7, 2012, the Department discovered that Claimant purchases and prepares food with her mother and father in the household.
7. The Department mailed Claimant a Quick Note (DHS-100) on November 7, 2012 which indicated that Claimant's FAP case had been incorrectly determined and that her parents' income must be considered when determining her FAP eligibility.
8. The Department mailed Claimant a Verification Checklist (DHS-3503) on November 7, 2012 with a due date of November 26, 2012.
9. On November 26, 2012, the Department received a letter signed by Claimant's parents ( [REDACTED] ) requesting an exception to the requirement that their assets be included in determining Claimant's FAP eligibility.
10. Claimant failed to return requested verifications by November 26, 2012.
11. On or about November 28, 2012, the Department's FAP Policy Unit reviewed the case and determined that Claimant should be in the same FAP group with her parents as they purchase and prepare food together.
12. On December 3, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed her FAP case effective January 1, 2013. The reason for closure is because Claimant failed to provide requested verifications.
13. On August 6, 2012, Claimant requested a hearing.

### **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 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's computer system known as "Bridges" will help determine who must be included in the Food Assistance Program (FAP) group prior to evaluating the non financial 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; and (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 must determine if they must be included in the group. BEM 212. If they are not mandatory group members, then the Department must determine if they purchase and prepare food together or separately. BEM 212.

Spouses who are legally married and live together must be in the same group. BEM 212. Children include natural, step and adopted children. BEM 212. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child(ren) have their own spouse or child who lives with the group. BEM 212. But for ongoing and intake applications, where the child is not yet 22, they are potentially eligible for their own case the month after turning 22. 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. 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.

A person who is temporarily absent from the group is considered living with the group. BEM 212. A person's absence is temporary if all of the following are true: (1) his or her location is known; (2) he or she lived with the group before his absence (newborns are considered to have lived with the group); (3) there is a definite plan for his or her return; and (4) the absence has lasted or is expected to last 30 days or less. BEM 212. Exception: The absence may last longer than 30 days if the absent person is in a hospital and there is a plan for him to return to the home. 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; (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.

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; (2) others are sharing their food until the person: (a) is approved

for FAP; (b) qualifies for other cash assistance; (c) secures some other source of income. BEM 212.

A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212. In determining the potential FAP benefit increase, Bridges assumes the FIP/SDA supplement and new grant amount have been authorized. BEM 212.

When a member leaves a group to apply on his own or to join another group, the Department must do a member delete in the month it learns of the application/member add. BEM 212. The Department will initiate recoupment if necessary. BEM 212. If the member delete decreases benefits, adequate notice is allowed. BEM 212.

The Department may request a Front End Eligibility (FEE) investigation from the Office of Inspector General (OIG) to complete a home visit to verify if the parent is out of the home. BEM 233A. The Department worker shall not determine eligibility on the pending FIP EDG closure until the FEE agent completes an investigation. BEM 233A.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The Department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600.

Here, the facts are not in dispute. The Department closed Claimant's FAP case for failure to provide requested verifications. However, the underlying issue concerns the Department's application of BEM 212 which provides that persons who live together, as well as purchase and prepare food together are mandatory members of the same FAP group. Claimant, through her representatives/parents, contend that the Department should make an exception to BEM 212 for Claimant due to her physical and mental limitations as she is unable to either purchase and/or prepare her meals independently. This Administrative Law Judge has thoroughly reviewed the facts, the record evidence and, most importantly, the applicable policies relative to this matter. Based on the substantial, material and competent evidence in this case, this Administrative Law Judge finds that the Department correctly closed Claimant's FAP case under BEM 130 because Claimant failed to provide requested verification information. In addition, the Department also properly applied BEM 212 when it determined that Claimant and her

parents are mandatory group members who must be included in the same FAP because they purchase and prepare food together. BEM 212.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly when it closed Claimant's FAP case for failure to return requested verifications.

Accordingly, the Department's FAP decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
C. Adam Purnell  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: January 15, 2013

Date Mailed: January 15, 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.

2013-14370 /CAP

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/cr

cc:

