

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201331268
Issue No: 3014
Case No: [REDACTED]
Hearing Date: March 21, 2013
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on February 17, 2013. After due notice, a telephone hearing was held on March 21, 2013, at which Claimant appeared and provided testimony. Claimant was represented by her authorized representative, [REDACTED], of Kalamazoo Loaves and Fishes. Claimant's witness, [REDACTED], also appeared and provided testimony on Claimant's behalf. The department was represented by Tamara Norris, an eligibility specialist with the department's Kalamazoo County office.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefit eligibility?

FINDINGS OF FACT

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

1. Claimant was a recipient of FAP benefits in the amount of \$ [REDACTED] per month at all times relevant to this hearing.
2. On November 7, 2012, the department received completed Redetermination paperwork, signed by [REDACTED] on October 30, 2012. In signing the Redetermination, [REDACTED], under penalty of perjury, swore or affirmed that the application had been examined by or read to him and, to the best of his knowledge, the facts were true and complete. [REDACTED] further certified with his signature, under penalty of perjury, that all the information written on the form or told to his DHS specialist or his representative is true. (Department Exhibit 1)

3. In his October 30, 2012 Redetermination paperwork, [REDACTED] identified Claimant as a roommate in his household and Mr. Avery reported that they buy, fix, or eat meals together. (Department Exhibit 1)
4. On November 19, 2012, the department conducted a telephone interview with [REDACTED], at which time [REDACTED] reported to the department that he and Claimant purchase, prepare and eat meals together "some of the time." (Department Exhibit 1)
5. On November 26, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing her that, effective January 1, 2013, her FAP case would be closed due to her inclusion in [REDACTED] FAP group effective January 1, 2013. (Department Exhibit 2)
6. On February 14, 2013, Claimant submitted a timely hearing request protesting the department's closure of Claimant's FAP case and Claimant's inclusion in [REDACTED] FAP group. (Request for a Hearing)
7. On February 15, 2013, the department removed Claimant from [REDACTED] FAP group effective March 1, 2013 and mailed Claimant an assistance application to reapply for FAP benefits. (Department Hearing Summary)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting their eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. 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).

The Food Assistance Program (FAP) was established pursuant to 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 pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the FAP are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The relationship of the people who live together affects whether they must be included or excluded from the FAP eligibility determination group. BEM 212, p 1.

FAP group composition is established by determining all of the following:

- Who lives together.
- The relationship(s) of the people who live together.
- Whether the people living together purchase and prepare food together or separately.
- Whether the person(s) resides in an eligible living situation.

Living together 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, p 2. The phrase "purchase and prepare food together" is meant to describe persons who customarily share food in common. BEM 212, p 5. Persons customarily share food in common if:

- They each contribute to the purchase of food.
 - They share the preparation of food, regardless of who paid for it.
 - They eat from the same food supply, regardless of who paid for it.
- BEM 212, p 5.

In general, persons who live together and purchase and prepare food together are members of the same FAP eligibility determination group. BEM 212, p 5.

In the instant case, Claimant's February 14, 2013 hearing request challenges the department's closure of Claimant's FAP benefits case and Claimant's inclusion as a group member in her roommate Terry Avery's FAP group, for the benefit period effective January 1, 2013.

At the March 21, 2013 hearing, the department representative (and Claimant's case worker) presented testimony and documentary evidence establishing that the department's closure of Claimant's FAP case and her inclusion on [REDACTED] FAP case was the result of Claimant's representation to the department both in his Redetermination paperwork and his Redetermination telephone interview that he and Claimant buy, fix, and prepare meals together. The department representative also presented testimony establishing that, upon receipt of Claimant's hearing request, the department removed Claimant from [REDACTED] FAP case, for the benefit period effective March 1, 2013 and encouraged Claimant to reapply for FAP benefits.

Claimant testified at the hearing that she herself had completed Mr. Avery's Redetermination paperwork on his behalf for his signature and that she had erroneously reported that she and [REDACTED] buy, fix, and prepare meals together. Claimant further testified that, upon receiving the department's Notice of Case Action closing her FAP case and adding her to [REDACTED] FAP case, Claimant repeatedly attempted to contact her case worker beginning on November 28, 2012 to correct her error (information that Claimant's caseworker did not dispute) but the department did not do so until she filed her February 14, hearing request, resulting in her loss of FAP benefits for the months of January and February 2013.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds based on the competent, material, and substantial evidence presented at the hearing, that the department acted in accordance with policy in closing Claimant's FAP benefits case effective January 1, 2013 based on the representations set forth in [REDACTED] Redetermination paperwork, which paperwork Claimant acknowledged completing herself. This Administrative Law Judge further finds, however, that the department did not act in accordance with policy when it failed to reinstate Claimant's FAP benefits effective January 1, 2013 and issue her a supplement for the months of January and February, 2013, following Claimant's attempts on and after November 28, 2012 to contact her caseworker and correct her reporting error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's FAP benefits case effective January 1, 2013 and the department's actions in this regard are **UPHELD**. The Administrative Law Judge further decides that, following Claimant's attempts on and after November 28, 2012 to contact her caseworker and correct her group composition reporting error, the department improperly failed to reinstate Claimant's FAP benefits effective January 1, 2013 and issue her a supplement for the months of January and February, 2013. Accordingly, the department is **ORDERED** to reinstate Claimant's FAP benefits case effective January 1, 2013 and issue Claimant a FAP benefit supplement for the months of January and February 2013.

IT IS SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 25, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS 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 this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

