

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201337081  
Issue No.: 3002, 3014  
Case No.: [REDACTED]  
Hearing Date: [REDACTED]  
County DHS: [REDACTED]

**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 [REDACTED] from [REDACTED]. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly closed Claimant's Food Assistance Program (FAP) benefits due to excess income?

**FINDINGS OF FACT**

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

1. The Claimant and [REDACTED] are licensed drivers and both their addresses on record with the Michigan Secretary of State are on record as [REDACTED].
2. The Claimant's mailing address of record with the Michigan Department of Human Services (Department) is [REDACTED].
3. The Claimant was an ongoing Food Assistance Program (FAP) recipient until [REDACTED].
4. [REDACTED] receives monthly retirement benefits in the gross monthly amount of \$ [REDACTED].

5. On [REDACTED] and [REDACTED] [REDACTED] submitted applications for State Emergency Relief (SER) benefits and notified the Department that he lives at [REDACTED].
6. The Claimant submitted an application for Food Assistance Program (FAP) benefits as a group of two on [REDACTED] but did not list [REDACTED] as living in her home.
7. On [REDACTED] the Department determined the Claimant's eligibility for the Food Assistance Program (FAP) as a group of three, that the income of [REDACTED] is countable income towards that group, and then determined that the group is not eligible to receive Food Assistance Program (FAP) due to excess income.
8. The Department received the Claimant's request for a hearing on [REDACTED] protesting the closure of Food Assistance Program (FAP) benefits.

### **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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, R 400.3001 through Rule 400.3015.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500.

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. Department of Human Services Bridges Eligibility Manual (BEM) 212 (November 1, 2012), p 1.

The Claimant submitted an application for Food Assistance Program (FAP) benefits on [REDACTED] as a group of two. This application did not list [REDACTED] as a resident of the household. On [REDACTED], and [REDACTED] submitted applications for State Emergency Relief (SER) benefits and notified the Department that he lived at the same residence as the Claimant. [REDACTED] notified the Department that he purchases and prepares food with the Claimant and her son.

On [REDACTED] the Department determined the Claimant's eligibility for the Food Assistance Program (FAP) as a group of three and included the income of [REDACTED] in the benefit group's countable income.

[REDACTED] receives monthly retirement benefits in the gross monthly amount of \$ [REDACTED] an amount that was not disputed during the hearing. The monthly gross income limit for a group of three to participate in the Food Assistance Program (FAP) is \$ [REDACTED] Department of Human Services Reference Manual Table (RFT) Item 250 (October 1, 2012), p 1. Therefore, if [REDACTED] is a member of the Claimant's Food Assistance Program (FAP) group, the group is not eligible to receive FAP benefits due to excess income.

The Claimant argued that she does not purchase and prepare food together with [REDACTED]. The Claimant argued that [REDACTED] is not a mandatory member of her benefit group, and his income should not be considered when determining her eligibility to receive Food Assistance Program (FAP) benefits.

The Claimant and [REDACTED] testified that [REDACTED] listed his address as [REDACTED] solely for the purpose of becoming eligible for State Emergency Relief (SER) benefits.

This Administrative Law Judge finds that [REDACTED] resides in the same household as the Claimant because he has declared [REDACTED] this address to be where he lives to the Department and to the Secretary of State.

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 finds that the Department properly included [REDACTED] in the Food Assistance Program (FAP) group of the Claimant. The Claimant had a duty to report all persons living in her household. The Claimant failed to report [REDACTED]

██████ to the Department as a person that does not purchase and prepare food with the group when she had the opportunity to do so on her application for benefits. ██████ reported to the Department that he purchases and prepares food with the Claimant on his application for benefits.

The Claimant and ██████ testified that the State Emergency Relief (SER) applications submitted by ██████ contained errors, and that they do not purchase and prepare food together.

This Administrative Law Judge finds that the Claimant and ██████ have reported inconsistent facts to the Department depending on how it affects their eligibility to receive benefits.

Based on the evidence and testimony available during the hearing, the Department has established that ██████ lives together with the Claimant and that they purchase and prepare food together. The Department properly included ██████ in the Claimant's benefit group. The Department properly included the income of ██████ in its determination of the Claimant's eligibility for the Food Assistance Program (FAP). The Department properly closed the Claimant's Food Assistance Program (FAP) case due to excess income.

### **DECISION AND ORDER**

Based upon the above Findings of Fact and Conclusions of Law the Administrative Law Judge concludes that, due to excess income, the Department properly closed Claimant's Food Assistance Program (FAP) case.

The Department's Food Assistance Program (FAP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

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

Date Signed: 04/25/2013

Date Mailed: 04/25/2013

**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/kl

cc:

