

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201333958
Issue No: 3014, 3021
Case No: [REDACTED]
Hearing Date: April 3, 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 March 11, 2013. After due notice, a telephone hearing was held on April 3, 2013, at which Claimant appeared and provided testimony. Claimant's mother, [REDACTED], also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's Kalamazoo County office, and Trevor Manuel, a regulation agent with the department's Office of Inspector General.

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. On December 21, 2012, Claimant applied for FAP benefits and, in doing so, reported that he lives with his mother and that they purchase and prepare food together. (Department Exhibit 1)
2. On January 17, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that effective December 21, 2012, his FAP application had been denied for the reason that that the assets of his FAP group (which included Claimant and his mother) exceeded the \$5,000.00 asset limit for the FAP program. (Department Exhibit 2)

3. On February 4, 2013, Claimant reapplied for FAP benefits and, in doing so, he reported that, while he lives with his mother, he no longer purchases and prepares food with her. In support of his application, Claimant's mother submitted a statement indicating that Claimant purchases and prepares his own food. (Department Exhibits 3-4)
4. The department approved Claimant's February 4, 2013 FAP application with a monthly benefit amount of \$ [REDACTED]
5. On February 8, 2013, Claimant's brother, [REDACTED], applied for FAP benefits and, in doing so, reported that he lives his mother and his brother, Claimant, and that they purchase and prepare food together. Also, in his February 25, 2013 interview with his case specialist, [REDACTED] reported that he moved in with Claimant and their mother "about one month ago." (Department Exhibit 5)
6. On February 25, 2013, the department referred Claimant's FAP case for a Front End Eligibility (FEE) investigation to determine whether Claimant and his brother and their mother should be included in one FAP group.
7. On March 6, 2013, the Office of Inspector General (OIG) completed its investigation of Claimant's FAP case and determined that Claimant and his brother and their mother should be included in one FAP group because, according to Thomas Stump's statement to OIG agent Trevor Manuel, Claimant's mother prepares food for him and Claimant. (Department Exhibit 6)
8. On March 5, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605), informing him that, effective April 1, 2013, his FAP case would be closed for the reason that that the assets of his FAP group (which included Claimant, his brother and his mother) exceeded the \$5,000.00 asset limit for the FAP program. (Department Exhibit 7)
9. On March 8, 2013, Claimant submitted a timely hearing request protesting the department's closure of Claimant's FAP case. (Request for a Hearing)

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.

The Department determines a client's eligibility for FAP benefits based on the client's or the FAP group's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505. Earned income means income received from another person or organization or from self-employment 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 (AMP), 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. BEM 500.

The Department also determines a client's eligibility for FAP benefits based on, among other things, the assets of the FAP group. BEM 400. Assets mean cash, any other personal property and real property. Effective October 1, 2011, the FAP asset limit is \$5,000.00. BEM 400, p. 4.

In the instant case, Claimant's hearing request challenges the department's closure of Claimant's FAP benefits case due to the assets of Claimant's FAP group exceeding the limit for the FAP program.

At the April 3, 2013 hearing, the department representative presented testimony and documentary evidence establishing that the department's inclusion of Claimant's mother and brother in Claimant's FAP group and the subsequent closure of Claimant's FAP case due to excess assets was the result of Claimant's brother's representation to the department both in assistance application and his interview with OIG agent Trevor Manuel that he and Claimant and their mother buy, fix, and prepare meals together. The department representative also presented testimony establishing that the combined assets of Claimant's FAP group exceed the \$5,000.00 FAP asset limit. Specifically, the department representative testified that Claimant's mother has a savings account balance in the amount of \$ [REDACTED] and a checking account balance in the amount of \$ [REDACTED] and Claimant has a vehicle worth \$ [REDACTED] and a savings account in the amount of \$ [REDACTED]

Claimant did not disagree with the value of his household's assets as identified by the department but testified that, contrary to his initial report to the department and contrary to his brother's report to the department; he prepares his own meals since he is diabetic and requires special meals. When asked by this Administrative Law Judge why he failed to report in his February 4, 2013 assistance application that his brother also lived with him and their mother (as reported by Claimant's brother), Claimant acknowledged that he should have done so.

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, including the fact that Claimant twice completed a FAP application on December 21, 2012 and February 4, 2013 and, in signing these applications, Claimant certified with his signature, under penalty of perjury, that the applications had been examined by or read to him and, to the best of his knowledge, the

facts were true and complete. However, Claimant has since acknowledged that he reported inaccurate information in both applications regarding members of his household and whether they purchased and prepared food together. Against this backdrop, this Administrative Law Judge finds Claimant's hearing testimony that he prepares his own meals to be unconvincing and unreasonable.

Accordingly, the Administrative Law Judge finds, based on the competent, material, and substantial evidence presented at the hearing, the department acted in accordance with policy in closing Claimant's FAP benefits case due to excess assets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in closing Claimant's FAP benefits case due to excess assets. Accordingly, the department's action in this regard is **UPHELD**.

IT IS SO ORDERED.

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

Date Signed: April 4, 2013

Date Mailed: April 5, 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 60 days of the filing of the original request.

The Claimant may appeal this 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 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:

