

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-42031  
Issue No.: 3002, 3014  
Case No.: [REDACTED]  
Hearing Date: [REDACTED]  
County: Calhoun DHS

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

**ISSUE**

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) group composition?

**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 was an ongoing Food Assistance Program (FAP) recipient until [REDACTED]
2. On [REDACTED], the Department received the Claimant's completed Redetermination (DHS-1010) where she reported that [REDACTED] was a household member but he does not purchase and prepare food with the group.
3. [REDACTED] has an ownership interest in the Claimant's home and shares responsible for the utilities, property taxes, and insurance.

4. On [REDACTED], the Department determined that [REDACTED] was a member of the Claimant's Food Assistance Program (FAP) benefit group.
5. On [REDACTED], the Department determined that the Claimant was not eligible for Food Assistance Program (FAP) benefits after including the earned income of [REDACTED] in its eligibility determination.
6. The Department received the Claimant's request for a hearing on [REDACTED], [REDACTED] protesting the closure of her 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.

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (November 1, 2012), p 1.

The Claimant was an ongoing Food Assistance Program (FAP) recipient until [REDACTED]. On [REDACTED] the Department received the Claimant's completed Redetermination (DHS-1010) where she reported that [REDACTED] was a member of her household but that he does not purchase and prepare food with the group.

On [REDACTED], the Department determined [REDACTED] was a member of the Claimant's Food Assistance Program (FAP) benefit group. On [REDACTED], the Department determined that the Claimant was not eligible for Food Assistance Program (FAP) benefits after including the earned income of [REDACTED] in its eligibility determination.

[REDACTED] has an ownership interest in the Claimant's home. He is responsible for rent payments as well as utility and insurance bills.

The Claimant does not dispute that she has a relationship with [REDACTED] or that he is living in her household. The Claimant argued that [REDACTED] should not be considered a member of her Food Assistance Program (FAP) group.

No evidence was presented during the hearing to establish that the Claimant is married to [REDACTED], or that he is a parent to any of her children. The Department failed to establish that he is a mandatory member of the Claimant's benefit group. Therefore,

the issue of whether he should be included in the Food Assistance Program (FAP) group depends on whether he purchases and prepares food together or separately with the rest of the household.

The phrase, purchase and prepare together, is meant to describe persons who customarily share food in common. 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.

The Department presented evidence showing that the Claimant is living with [REDACTED], but failed to present evidence of food purchases.

The Claimant testified that [REDACTED] does not purchase and prepare food with the household. The Claimant testified that [REDACTED] consumes his meals while at his place of employment, and that he is not present in the home during meal times. [REDACTED] testified that he cannot afford to provide the Claimant or her children with food. The Claimant testified that [REDACTED] status in the household has not changed and that his presence in the household had been reported to the Department before [REDACTED].

Based on the evidence and testimony available during the hearing, the Department has failed to establish that the members of the Claimant's Food Assistance Program (FAP) benefit group purchase and prepares food with [REDACTED]. Therefore, the Department failed to establish that it properly determined the Claimant's Food Assistance Program (FAP) group composition, and failed to establish that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP).

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined the Claimant's Food Assistance Program (FAP) group composition.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Allow the Claimant a ten-day period to provide the Department with information to clarify the composition of her Food Assistance Program (FAP) benefit group.
2. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of [REDACTED].

3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/S/  
**Kevin Scully**  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 05/30/2013

Date Mailed: 05/30/2013

**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

2013-42031/KS

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cc:

