

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

IN THE MATTER OF:



Reg. No.: 201347001
Issue No.: 3014
Case No.: [REDACTED]
Hearing Date: June 10, 2013
County: Wayne DHS (31)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 10, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Regulation Agent.

ISSUE

The issue is whether DHS properly did not change Claimant's FAP benefit group composition based on a reported change by Claimant.

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 was an ongoing FAP benefit recipient.
2. Claimant shared a household with her: three minor children, adult brother, mother and a step-father who was also the father of one of Claimant's minor children.
3. On an unspecified date, DHS determined Claimant's FAP benefit group size to be 7, all members of the household.
4. On an unspecified date in or prior to 2/2013, Claimant reported to DHS that she moved out of the household of 7 persons and sought a FAP benefit determination based on a different group composition.

5. Following an investigation, DHS determined that Claimant did not change her address.
6. On 5/8/13, Claimant requested a hearing to dispute the lack of change in her FAP benefit group composition.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute an alleged failure by DHS to recognize a change of address which could result in a change of group size. DHS responded that a change of address or group size did not occur because Claimant did not move.

DHS presented testimony that a meeting was held on 2/12/13 in which Claimant appeared. The testifying specialist and regulation agent were present at the meeting. The testifying specialist and regulation agent each credibly testified that at the meeting Claimant conceded that she did not move. Claimant denied making such a concession. During the hearing, Claimant stated that she “partially” moved. Claimant attempted to clarify that she spent some days at the allegedly new address and some at her old address. Claimant did not give a coherent reason as to why she would have such a living situation. Claimant’s testimony was not persuasive.

Documentation is persuasive. DHS presented a copy of Claimant’s identification (Exhibit 2) which verified Claimant never reported a change in address with the Secretary of State. This evidence was highly persuasive in supporting that Claimant did not change addresses.

For good measure, Claimant’s Request for Hearing dated 5/8/13 listed her supposedly outdated address as her current address. Claimant testified that she only uses the address as a mailing address. Again, Claimant’s testimony was not persuasive.

Based on the presented evidence, it is found that Claimant failed to verify a change of address. Accordingly, it is found that Claimant’s group composition should be factored based on the household with seven persons.

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 and whether the person(s)


resides in an eligible living situation. BEM 212 (11/2012), p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. *Id.* First, DHS is to determine if they must be included in the group. *Id.* If they are not mandatory group members, then DHS is to determine if they purchase and prepare food together or separately. *Id.*

Spouses who are legally married and live together must be in the same group. *Id.* 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. *Id.*

It was not disputed that the FAP benefit group should include Claimant and her three minor children. The group would also include her child's father and Claimant's mother as her child's father's spouse. The adult brother would also be included for preparing food with Claimant's mother. It is found that Claimant's appropriate FAP group size is seven persons, the same as determined by DHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP benefit group size based on Claimant's actual residence. The actions taken by DHS are AFFIRMED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 6/19/2013

Date Mailed: 6/19/2013

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

CG/hw

cc:

