

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014196
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: November 20, 2014
County: MACOMB-DISTRICT 36 (STERL

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly determined the Claimant's Food Assistance Program (FAP) benefit group composition?

FINDINGS OF FACT

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

1. On July 31, 2014, the Claimant submitted a Food Assistance Program (FAP) application but had been an ongoing FAP recipient.
2. The Department approved the Claimant for continuing benefits as a group of two from July 31, 2014, through September 30, 2014.
3. The Claimant's adult daughter lives in the Claimant's household, attends college, and reported that she works 19 hours per week.
4. On October 10, 2014, the Department received the Claimant's request for a hearing protesting the amount of his Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Food Assistance Program group composition is established by determining all of the following:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately.
4. Whether the person(s) resides in an eligible living situation. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2014), pp 1-13.

The phrase, purchase and prepare together, is meant to describe persons who usually share food in common. Persons usually share food in common if any of the following conditions exist:

- 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.

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

A person is in student status if he is:

- Age 18 through 49 and
- Enrolled half-time or more in a:

- Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
- Regular curriculum at a college or university that offers degree programs regardless of whether a diploma is required. Department of Human Services Bridges Eligibility Manual (BEM) 245 (July 1, 2014), pp 1-11.

In order for a person in student status to be eligible for Food Assistance Program (FAP) benefits the student must meet the criteria set forth in BEM 245.

The Claimant was an ongoing Food Assistance Program (FAP) recipient when she submitted an application for FAP benefits on July 31, 2014. The Department determined that the Claimant's 26-year-old daughter was a member of the Claimant's Food Assistance Program (FAP) benefit group from July 31, 2014, through September 30, 2014.

The Claimant argued that his adult daughter, who attends college and works 19 hours per week, does not purchase and prepare food with him. The Claimant protested the Department's determination that his Food Assistance Program (FAP) benefit group size of two from July 31, 2014, through September 30, 2014.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the Claimant's benefit group size and composition from July 31, 2014, through September 30, 2014. The Department failed to provide sufficient evidence to establish that the Claimant and his daughter, who are not mandatory group members, actually purchase and prepare food together. The Department failed to establish that the daughter is an eligible for Food Assistance Program (FAP) as a student.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Provide the Claimant with a 10-day period to clarify whether he purchases and prepares food with his daughter.
2. Provide the Claimant with a 10-day period to clarify the number of hours his daughter worked each week on average from July 31, 2014, through September 30, 2014.

3. Initiate a determination of the Claimant's eligibility for the Food Assistance Program (FAP) as of July 31, 2014.
4. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
5. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/24/2014**

Date Mailed: **11/24/2014**

KS/sw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

