

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002194
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: June 10, 2014
County: Kalamazoo County DHS

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 June 10, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly close the Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance Program (FAP) benefits as a group of three and reported that her children's father was not a member of her household.
2. On March 24, 2014, the Department initiated a Front End Eligibility (FEE) investigation into the Claimant's eligibility for Food Assistance Program (FAP) benefits.
3. After making several collateral contacts, the Department determined that the father of the Claimant's children was living with her.
4. On April 21, 2014, the Department notified the Claimant that she is not eligible for Food Assistance Program (FAP) benefits.
5. On May 1, 2014, the Department received the Claimant's request for a hearing protesting the denial of her Food Assistance Program (FAP) application.

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.

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. Parents and their children under 22 years of age who live together must be in the same group. Department of Human Services Bridges Eligibility Manual (BEM) 212 (November 1, 2012), p 1.

Living with 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, p3.

In this case, the Claimant applied for Food Assistance Program (FAP) benefits as a group of three that included herself and two children. The Claimant reported to the Department that her children's father was not living in her home. On March 24, 2014, the Department initiated a Front End Eligibility (FEE) investigation into the Claimant's eligibility for Food Assistance Program (FAP) benefits. After making several collateral contacts, the Department determined that the father of the Claimant's children was living with her. After including the father's income in its eligibility determination, the Department denied the Claimant's Food Assistance Program (FAP) application on April 23, 2014.

The Department based its determination on interviews with the father and grandfather of the Claimant's children, as well as publicly posted information from the internet.

The Claimant argued that her children's father is a truck driver and his employment requires him to be out of town frequently. The Claimant did not dispute that income earned by the father of her children would cause her benefit group to be ineligible for the Food Assistance Program (FAP), but argued that he does not live with her household and is merely an occasional guest that watches her children while she is at work.

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).

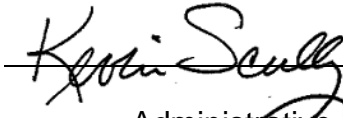
If the father of the Claimant's children is living with the Claimant, then he is considered a mandatory group member under Department policy and it does not matter whether he purchases and prepares food with the group. This Administrative Law Judge finds that the Department did not present evidence that would support a finding that the Claimant intended to present inaccurate or untruthful information to the Department concerning her entitlement to Food Assistance Program (FAP) benefits. The Claimant merely disputes the Department's interpretation of policy.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department has presented substantial evidence supporting its finding that the father of the Claimant's children is living with the benefit group. The Claimant reported to the Department that the father of her children resides at another residence, but statements during interviews with the Department's investigators create substantial doubt as to the accuracy of those statements as defined by Department policy. Having found that the father of the Claimant's children is living in her household, the Department is required to consider his income when determining the group's eligibility for the Food Assistance Program (FAP).

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 acted in accordance with Department policy when it denied the Claimant's Food Assistance Program (FAP) application.

DECISION AND ORDER

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



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

Date Signed: **6/18/2014**

Date Mailed: **6/18/2014**

KS / hj

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 48909-07322

cc:

