

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011260
Issue No.: 3008
Case No.: [REDACTED]
Hearing Date: October 22, 2014
County: JACKSON

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in-person hearing was held on October 22, 2014, from Jackson, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly determine 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. Following submission of a semi-annual contact report on [REDACTED], Claimant's FAP benefits were recalculated.
2. On August 20, 2014, the Department determined that Claimant's FAP benefits would be [REDACTED] per month.
3. Claimant requested hearing on August 29, 2014, contesting the determination of his FAP benefits.
4. Claimant's child support expense was reduced during the time period in question. Claimant acknowledged this at hearing.
5. Claimant does not purchase and prepare food with his landlord [REDACTED].

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 PURCHASE AND PREPARATION

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.

Example: Sue, age 26, and her sister Mary, age 29, live in the same home. They purchase and prepare their food together. They are one FAP group.

Example: Betty and her two children move in with Sara, Betty's friend. Sara purchases and prepares food separately from Betty and her two children. They are two groups for FAP purposes.

Persons who normally purchase and prepare separately maintain that distinction even when they are temporarily sharing food with others.

Persons are temporarily sharing food if both of the following are true:

- They had previously purchased and prepared separately.
- Others are sharing their food until the person: Is approved for FAP. Qualifies for other cash assistance. Secures some other source of income.

The purchase and prepare question on the DHS-1171, Assistance Application, is addressed as buy and fix food together. BEM 212

Additionally, Claimant credibly testified that he pays rent to [REDACTED]. Claimant credibly testified at hearing that he does not purchase and prepare food with [REDACTED]. Claimant credibly testified that he shares food with [REDACTED] on an infrequent basis, a few times per month. Claimant and [REDACTED] do not "usually" share food in common.

The Department representative asserted at hearing that if individuals share food once a month, then they are required by policy to be included in the same group. Department policy does not support his position. BEM 212

The amount used for Claimant's child support expense was correct.

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 did not act in accordance with Department policy when it included [REDACTED] in Claimant's FAP group.

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. Remove [REDACTED] from the FAP group and Recalculate Claimant's FAP benefits for a household of 1.
2. Issue a supplement for any additional FAP benefits Claimant may be entitled to.



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

Date Signed: **10/28/2014**

Date Mailed: **10/28/2014**

AM/jaf

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:

