

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

IN THE MATTER OF:

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Reg. No.: 201433178
Issue No(s): 3001
Case No.: ██████████
Hearing Date: April 21, 2014
County: Kent (00)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 April 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearing Facilitator; ██████████, Family Independence Manager; and ██████████, Regulatory Agent with the Office of Inspector General.

ISSUE

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

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 recipient with a FAP group size of three consisting of Claimant and two children under her care.
2. In August 2013, Claimant notified the Department that she and the children under her care moved in with her adult cousin, his wife and their minor children.
3. On December 17, 2013, Claimant was interviewed by the Department regarding her eligibility for FAP benefits.

4. Based on the interview, the Department concluded that Claimant's FAP group should include her adult cousins and their children.
5. On January 9, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP case would close effective February 1, 2014 because the group's gross income exceeded the allowable limit.
6. On March 14, 2014, Claimant filed a Request for Hearing disputing the Department's actions.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

In this case, the Department's Regulatory Agent indicated that he interviewed Claimant on December 17, 2013. Following the interview, the Department concluded that Claimant purchased and prepared her food with her adult cousins who reside in the same home. The Department provided no documentary evidence that Claimant purchases and prepares her food with her adult cousins. Department policy holds that generally, persons who live together and purchase and prepare food together are members of the same FAP group. BEM 212 (February 2014), p. 6. However, Department policy also states that persons who normally purchase and prepare food separately maintain their distinction even when they are temporarily sharing food with others. *Id.*

Further, Claimant credibly testified that she does not purchase or prepare her food with adult cousins. Claimant stated that she told the Department that her adult cousin provides transportation to the grocery store but that she purchases her food separately from him. Claimant acknowledged that she shares food that she prepares during lunchtime with her cousins' minor child and occasionally with her cousins' other minor child when she is in the home but only when her adult cousins are at work. Claimant testified that she does not prepare food for her adult cousins' minor children at any other time.

Accordingly, it is found that Claimant temporarily shares food with her cousins' minor children on occasion and does not share any food with adult cousins. As such,

Claimant's adult cousins and their minor children are not eligible members of Claimant's FAP group composition. Therefore, their income should not have been considered in the calculation of Claimant's FAP eligibility.

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 added her cousins to Claimant's FAP group and closed her FAP case.

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. Reinstate Claimant's FAP case as of February 1, 2014 with a group composition of three; and
2. Issue supplements to Claimant for any FAP benefits she is eligible to receive but did not from February 1, 2014, ongoing.


JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 1, 2014

Date Mailed: May 1, 2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

JAM/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]