

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003597
Issue No.: 3001
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: Kent-District 1

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 April 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Family Independence Manager, [REDACTED], Eligibility Specialist, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's Food Assistance Program (FAP) application?

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 February 9, 2015, the Claimant submitted a Food Assistance Program (FAP) application.
2. Department records indicate that on February 12, 2015, the Claimant informed the Department that he lives with his sister and they purchase and prepare food together.
3. On February 17, 2015, the Department notified the Claimant that his FAP application had been denied.
4. On March 6, 2015, the Department received the Claimant's request for a hearing protesting the denial of his FAP application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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. Department of Human Services Bridges Eligibility Manual (BEM) 212 (July 1, 2014), p 1.

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, p 6.

A person must not participate as a member of more than one FAP group in any given month. BEM 212, p10.

On February 9, 2015, the Claimant applied for FAP benefits. On February 12, 2015, the Department conducted a mandatory eligibility interview with the Claimant. Department records indicate that during that interview, the Claimant reported that he lives with his sister and that they purchase and prepare food together. The Department determined that BEM 212 requires that the Claimant and his sister should be in the same FAP benefit group. Since the Claimant's sister is active for FAP benefits, the Department denied his FAP application.

The Claimant testified that he does not purchase and prepare food together with his sister. The Claimant testified that he receives his meals at a nearby treatment center. The Claimant testified that he does not remember informing the Department during an interview that he purchases food together with his sister.

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).

It is a standard practice for the Department to interview a FAP applicant and to inquire whether the applicant purchase and prepares food with any other members of the household. The Department employee that conducted the interview testified that she asked The Claimant if he contributes to the food supply in his home and recorded that he responded that he does.


The Claimant testified that he does not remember telling the Department that he purchases food with his sister. The Claimant testified that he remembers participating in the interview, but that it was conducted soon after leaving treatment for substance abuse.

This Administrative Law Judge finds that the information recorded in the Claimant's case by the Department is a regular business record and contains information commonly used by the Department to determine an applicant's eligibility for FAP benefits. This Administrative Law Judge found the Department's witnesses to be credible and is supported by the records contained in the Claimant's benefit file. The Claimant testified that his memory of the interview is not complete. Therefore, this Administrative Law Judge finds that the Claimant did report to the Department during his eligibility interview that he purchases and prepares food with his sister.

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**.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/15/2015**

Date Mailed: **4/15/2015**

KS/las

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:

