

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

[REDACTED]

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on [REDACTED]. After due notice, a telephone hearing was held on [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP), Medical Assistance (MA), and State Disability Assistance (SDA) eligibility?

FINDINGS OF FACT

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

1. The Claimant applied for Food Assistance Program (FAP), Medical Assistance (MA), and State Disability Assistance (SDA) on [REDACTED].
2. The Department prepared his MA and SDA applications for submission to the Medical Review Team (MRT).
3. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED].
4. The Claimant's spouse receives a monthly annuity payment in the gross monthly amount of [REDACTED].

5. The Claimant has a monthly housing expense of [REDACTED]
6. The Department determined that the Claimant was eligible for Food Assistance Program (FAP) benefits effective [REDACTED].
7. The Department determined that the Claimant was eligible for a monthly FAP allotment of [REDACTED]
8. The Department received the Claimant's request for a hearing on [REDACTED], [REDACTED], protesting the Department's determination of his eligibility for FAP, MA, and SDA benefits.
9. The Claimant and his spouse were approved for Medical Assistance (MA) effective [REDACTED]
10. The Claimant's spouse was approved for State Disability Assistance (SDA) effective [REDACTED].

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp program, is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department), administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

The Claimant applied for [REDACTED] benefits as a group of two on [REDACTED]. The Claimant receives monthly Retirement, Survivors, and Disability [REDACTED] in the gross monthly amount of [REDACTED]. The Claimant's spouse receives a monthly annuity payment in the gross monthly amount of [REDACTED]. The Claimant's adjusted gross income of [REDACTED] was determined by subtracting the [REDACTED] standard deduction and the Claimant's [REDACTED] medical deduction from the total household countable income. The Claimant's excess shelter deduction of [REDACTED] was determined by adding his monthly rent payment of [REDACTED] to the [REDACTED] heat and utility standard deduction under the [REDACTED], and subtracting [REDACTED] of the Claimant's adjusted gross income.

The Claimant's net income of [REDACTED] was determined by subtracting the excess shelter deduction from his adjusted gross income. A claimant with a group size of two and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED] 4, which is the amount of FAP benefits granted to the Claimant for this period. [REDACTED]. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment.

The Claimant applied for [REDACTED] [REDACTED] or [REDACTED], and the Department prepared his application for submission to the Medical Review Team (MRT). Before the Department had reached an eligibility determination concerning the Claimant's application for MA and SDA assistance, the Department received the Claimant's request for a hearing on [REDACTED]. Later, the Department approved the Claimant's application for MA and SDA benefits with a benefit period starting [REDACTED].

During the hearing, the Claimant argued that the Department has repeatedly violated his Constitutional rights and is in violation of relevant federal statutes and regulations by mishandling his application for benefits. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. [REDACTED]

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600. The [REDACTED] may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments
- Reduction in the amount of program benefits or service

- Suspension or termination of program benefits or service
- Restrictions under which benefits or services are provided
- Delay of any action beyond the standard of promptness
- For FAP only, the current level of benefits or denial of expedited service

In this case, none of these circumstances applied to the Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) application. Therefore, the Claimant's hearing request is **HEREBY DISMISSED**, because SOAHR for the Department of Human Services lacks jurisdiction to hear and decide the Claimant's grievance concerning Medical Assistance (MA) and State Disability Assistance (SDA).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Food Assistance Program (FAP) eligibility.

The Department's Food Assistance Program (FAP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

The Claimant's hearing request as it relates to Medical Assistance (MA) and State Disability Assistance (SDA) is **HEREBY DISMISSED**, because SOAHR for the Department lacks jurisdiction to hear and decide the Claimant's issue.

_____/s/_____


Date Signed: __3/18/11_____

Date Mailed: __3/18/11_____

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 was made, within 30 days of the receipt date of the rehearing decision.

[REDACTED]