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

IN THE MATTER OF:

[redacted]

Reg. No: 2011-41285
Issue No: 3002
[redacted]
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on June 30, 2011. After due notice, a telephone hearing was held on July 28, 2011. Claimant personally appeared and provided testimony.

ISSUES

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. On May 17, 2011, the department mailed Claimant the Redetermination packet due June 1, 2011. (Department Exhibits 3-7).

2. On June 16, 2011, after a review of Claimant's Redetermination packet, the department mailed Claimant a Notice of Case Action informing Claimant that she was eligible to receive $214.00 in FAP benefits for the period of July 1, 2011 through June 30, 2012 based on her reported income. (Department Exhibits 8-10).

3. Claimant submitted a hearing request on June 30, 2011, protesting the reduction of FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Food Assistance Program (FAP) was established pursuant to 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 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment 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 (AMP), 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.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

Claimant was receiving monthly unearned income in the amount of [redacted] at the time relevant to this matter based on her SSI and her husband's unemployment compensation benefits. The department subtracted the standard deduction of [redacted] from Claimant's unearned income resulting in [redacted] of adjusted gross income. BEM 556. An excess shelter deduction of [redacted] was subtracted from Claimant's adjusted gross income o[redacted] resulting in Claimant receiving [redacted] in net income.

Federal regulations at 7 CFR 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of four with net income of [redacted] is entitled to a [redacted] FAP allotment. Therefore, the department's FAP eligibility determination was correct based on Claimant's SSI and unemployment income.

Claimant objects to the decrease in FAP benefits. Claimant credibly testified that she does not have enough income to afford the food she needs for her family based on her special diet due to her medical issues.

While this Administrative Law Judge acknowledges Claimant's genuine concern of not being able to afford groceries, she is bound by the laws and regulations governing the issuance of FAP benefits, on which the department's policies are based. An extensive review of Claimant's disputed budgets by this Administrative Law Judge before rendering this Hearing Decision shows that all calculations were properly made at review, and all FAP issuance/budgeting rules were properly applied.

Claimant's grievance centers on dissatisfaction with the department's current policy. Claimant's request that her FAP benefits be increased 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. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940). As such, the department's reduction of Claimant's FAP allotment must be upheld.

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 Claimant's FAP eligibility.

The department's FAP eligibility determination is AFFIRMED.

It is SO ORDERED.

__/s/____________________________
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/2/11

Date Mailed: 8/2/11

<u>NOTICE</u>: 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 90 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.

VLA/ds

[redacted] [redacted]