

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

IN THE MATTER OF:

[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]
[REDACTED]

ISSUE

Whether the Department of Human Services (Department) acted properly when it refused to continue to refer the Claimant to the Work First program?

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) benefits on [REDACTED] [REDACTED].
2. The Claimant requested a referral to the [REDACTED] from the Department on [REDACTED].
3. The Department referred the Claimant to the [REDACTED] program on [REDACTED] [REDACTED].
4. On [REDACTED] the Department discontinued the [REDACTED] [REDACTED] program.
5. The Department received the Claimant's request for a hearing on [REDACTED] [REDACTED] protesting the suspension or termination of his participation in the [REDACTED] [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).

Department of Human Services (Department) has a unique opportunity to assist families in becoming strong, viable, participative members of the community. By involving the adult members of the household in employment-related activities, we help restore self-confidence and a sense of self-worth. These are cornerstones to building strong, self-reliant families.

[REDACTED] services may be available to all adults in FAP households. Other programs, such as the non-cash recipient program may be available to employed, underemployed, or recently employed adults residing in a household with a child under 18. Every local Michigan Works! Agency throughout Michigan operates both of these programs and may provide additional employment and training services. However, local variations, restrictions and/or policies may apply. Check with your local Michigan Works! Agency to determine what employment and education/training services are available in your area. BEM 230B.

[REDACTED] The Claimant requested a referral to the [REDACTED] program from the Department on [REDACTED]. The Department referred the Claimant to the [REDACTED] program on [REDACTED].

[REDACTED]). Because of the discontinuation of this program, the Department will no longer refer FAP recipients to the [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 State Office of Administrative Hearings and Rules ("SOAHR") 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

BAM Item 600. Additionally, for MA purposes, SOAHR may grant a hearing on other issues not applicable here, such as community spouse income, allowance, asset assessment, etc.


In this case, the Department did not deny the Claimant access to the [REDACTED] program, but discontinued the program from which it referred FAP recipients to [REDACTED]. The Claimant does not have a right to a hearing protesting the discontinuation of a program run by the Department. The Claimant's grievance centers on dissatisfaction with the Department's current policy. 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]

The Claimant may seek services from [REDACTED] without a referral from the Department. The services that the Claimant is eligible to receive are subject to the policies of the [REDACTED] the Claimant chooses to attend. These services are administered by the Department of Human Services (Department) and therefore not within the scope of authority delegated to this Administrative Law Judge.

Since the Claimant's grievance does not contest a Department action listed in [REDACTED] grant the Claimant the relief he has requested. Therefore, the Claimant's hearing request is dismissed for lack of jurisdiction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Request for Hearing is DISMISSED.

_____/s/_____


Date Signed: __4/11/11_____

Date Mailed: __4/11/11_____

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.

