

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-2685
Issue No.: 3002
Case No.: [REDACTED]
Hearing Date: January 12, 2012
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

In accordance with MCL 400.9, MCL 400.37, and 1999 AC, R 400.903, a hearing was held in this matter on January 12, 2012. Claimant personally appeared and provided testimony. The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether the Department properly reduced Claimant's benefits for the Food Assistance Program (FAP) based on excess income.

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, including the testimony of witnesses, the Administrative Law Judge, finds as relevant fact:

1. Claimant received benefits for Food Assistance Program (FAP).
2. On October 21, 2011, the Department sent Claimant notice of the reduction.
3. Beginning December 1, 2011, the Department reduced Claimant's benefits due to excess income.
4. On November 15, 2011, Claimant filed a hearing request, contesting the Department's reduction of benefits.

CONCLUSIONS OF LAW

The FAP [formerly known as the Food Stamp (FS) program] was 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 administers the FAP in

accordance with MCL 400.10, *et seq.*, and 1997 AACS, R 400.3001 through R 400.3015. Agency policies pertaining to this program are found in the BAM, BEM, and RFT.

Claimant admitted during the hearing that the department used the correct unemployment income and housing costs listed on page 2 of the Notice of Case Action dated 10/21/11, in calculating her FAP allotment. Claimant stated she was angry that the department first computed her FAP benefit at [REDACTED], because her unemployment benefits were not included, and she had budgeted the [REDACTED] as income and could not make ends meet on only [REDACTED]

While this Administrative Law Judge acknowledges Claimant's genuine concern for being able to feed her family and pay her rent, 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

Based on the above findings of fact and conclusions of law, and for the reasons stated on the record, the Administrative Law Judge finds that the Department did act properly.

Accordingly, the Department's decision is AFFIRMED.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/13/12

Date Mailed: 1/13/12

NOTICE: 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 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 mailing 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
 - the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

VLA/ds

