

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-14354
Issue No: 3015
Case No: [REDACTED]
Hearing Date: January 9, 2011
County: Genesee-02

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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. After due notice, a telephone hearing was held on January 9, 2012. Claimant appeared and testified.

ISSUES

Did the Department of Human Services (department) properly reduce the 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. The claimant was an FAP benefit recipient receiving [REDACTED] a month based on the federal standard deduction of \$588 for utilities. (Exhibit #1)
2. On October 1, 2011, the federal standards changed to \$553 which caused claimant's FAP benefits to drop to [REDACTED]. (Exhibit #2)
3. On September 20, 2011, the department caseworker sent claimant notice to let her know that the FAP benefits would be reduced as a result of the lowering of the federal standard deduction.
4. On November 16, 2011, claimant filed a request or a hearing to contest the department's negative action.

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. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

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 of that decision. BAM 600.

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) 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), the Bridges Reference Manual (BRM), 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.

In this case, Claimant and her son receive monthly unearned income in the amount of \$957.00 – this is from Claimant's SDA benefits (\$269.00), and from Claimant's son's SSI benefits (\$674.00) and State Supplemental Payment (\$14.00). The standard deduction of \$146.00 was subtracted from Claimant's countable income leaving an adjusted gross income of \$811.00. An excess shelter deduction of \$385.00 was subtracted from Claimant's adjusted gross income leaving a monthly net income of \$426.00.

Claimant's excess shelter deduction of [REDACTED] was determined by adding Claimant's monthly housing expenses to the new [REDACTED] heat and utility standard amount (per RFT 255, effective October 1, 2011) and subtracting half of Claimant's adjusted gross income. Claimant's monthly housing expense is [REDACTED] which, when added to the [REDACTED] standard heat and utility amount, resulted in a total housing expense of [REDACTED]7. Half of Claimant's adjusted gross income ([REDACTED]) was then subtracted from Claimant's housing and utilities ([REDACTED]) for an adjusted excess shelter deduction of [REDACTED]. Since Claimant does not meet the senior/disabled/veteran criteria, the department may only deduct the non-SDV shelter maximum amount of \$385.00 from Claimant's adjusted gross income. BEM 556.

Federal regulations at 7 CF 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 in claimant's circumstances with net income of [REDACTED] is entitled to a [REDACTED] FAP allotment. Therefore, the department's FAP eligibility determination was correct.

The claimant testified that she can't afford food for the entire month without assistance.

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 pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule 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).

Unfortunately, the Administrative Law Judge has no equity powers. The department is required to follow a formula set by the federal government and cannot deviate from that formula in determining eligibility for FAP benefits. This Administrative Law Judge finds that the department properly determined Claimant's FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's FAP eligibility.

Accordingly, the department's decision is UPHELD.

/s/

Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 1/11/12

Date Mailed: 1/12/12

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.

