NO. 23583

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

PAUL M. GAMBOA, Plaintiff-Appellant,

vs.

LILLIAN KOLLER,[1] Director, Department of Human Services,
State of Hawaiʻi,
Defendant/Third Party Plaintiff-Appellee,

and

TOMMY G. THOMPSON,[2] Secretary of Health and Human Services,
Defendant/Third Party Defendant-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 92-1846)

SUMMARY DISPOSITION ORDER
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy JJ.)

The plaintiff-appellant Paul M. Gamboa appeals from the June 13, 2000 judgment of the first circuit court, the Honorable Eden Elizabeth Hifo presiding, against Gamboa and in favor of the defendant/third-party plaintiff-appellee Lillian Koller, Director, Department of Human Services (DHS), State of Hawaiʻi, and the defendant/third-party defendant-appellee Tommy G. Thompson, Secretary of the federal Department of Health and Human Services (DHHS). On appeal, Gamboa contends: (1) that the

---

[1] Pursuant to Hawaiʻi Rules of Appellate Procedure (HRAP) Rule 43(c)(1) (2000), Lillian Koller is substituted for Susan M. Chandler and Winona E. Rubin, the former Directors of the Department of Human Services, State of Hawaiʻi.

[2] Pursuant to HRAP Rule 43(c)(1) (2000), Tommy G. Thompson is substituted for Dr. Louis W. Sullivan and Donna E. Shalala, the former Secretaries of Health and Human Services.

circuit court erred in finding that the “automobile equity exemption” established in 45 Code of Federal Regulations (C.F.R.) § 233.20(a)(3)(i)(B)(2) (1991) was not arbitrary or capricious within the meaning of the Federal Administrative Procedure Act (FAPA), 5 United States Code (U.S.C.) § 706(2)(A); and (2) that the circuit court erred in finding that the DHS was not required to exclude the value of one whole car in determining eligibility for medically needy Medicaid benefits pursuant to Hawaiʻi Revised Statutes (HRS) § 346-29 (1990).

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we affirm the circuit court’s judgment in favor of the DHS and the DHHS.

The “automobile equity exemption” was not invalid at the time it was promulgated. See Gamboa v. Rubin, 80 F.3d 1338, 1343 (9th Cir. 1996), aff’g in part and rev’g in part No. 92-00397, 1993 WL 738386, at *5-*6 (D. Haw. Nov. 4, 1993), vacated *en banc* by 101 F.3d 90 (9th Cir. 1996) ("the $1,500 limit was valid when first established in 1982"); Brown v. Secretary of Health and Human Serv., 46 F.3d 102, 110 (1st Cir. 1995) ("[T]he $1,500 automobile exemption was neither arbitrary nor capricious when it was promulgated."); Hazard v. Shalala, 44 F.3d 399, 406 (6th Cir. 1995) ("[T]he [DHHS’s] reliance on the 1979 food stamp survey was reasonable, especially in the absence of other information."); Champion v. Shalala, 33 F.3d 963, 957 (8th Cir. 1994) (finding that “the [DHHS’s] use of the Food Stamp study to be a reasonable means of carrying out the duty delegated to the DHHS by Congress . . . [and] conclud[ing that] the [DHHS’s] $1,500 limit . . . is a reasonable accommodation of Congress’s

mandates to provide for the needy while reducing federal spending”); Falin v. Shalala, 6 F.3d 207 (4th Cir. 1993) (per curiam), aff’g 776 F.Supp. 1097 (E.D. Va. 1991), cert. denied, 511 U.S. 1036 (1994) (affirming “the well reasoned opinion of the district court[,]" which concluded that, inasmuch as there was "a clear congressional intent to keep the [automobile equity] limit a low one . . . [the p]laintiff did not show that the that the [DHHS’s] regulation is not reasonably related to the purposes of the enabling legislation").

The DHHS reasonably concluded from the 1979 survey that, in 1981, a $1,500 auto equity limit would allow AFDC recipients to own functional cars. Gamboa, 80 F.3d at 1345 (citing Brown, 46 F.3d at 108-09; Hazard, 44 F.3d at 405; Champion, 33 F.3d at 966). Moreover, given the nature of the comments on the $1,500 “automobile equity exemption,” the DHHS’s brief response was not so inadequate as to violate the Administrative Procedure Act, 5 U.S.C. § 533(c); only one dozen comments were submitted, and they were all brief and general. Brown, 46 F.3d at 110.

In light of the foregoing uniform federal authority, and because we must “accord[] a presumption of validity” to the decisions of administrative bodies, Ka Paʻakai O Kaʻaina v. Land Use Com’n, 94 Hawaiʻi 31, 40-41, 7 P.3d 1068, 1077-78 (2000), we hold that the $1,500 "automobile equity exemption" was not arbitrary and capricious at the time the DHHS promulgated the regulation.

The DHHS’s failure to adjust the “automobile equity exemption” for inflation did not render the regulation invalid. See Brown, 46 F.3d 102; Hazard, 44 F.3d 399; Champion, 33 F.3d

963; Falin, 6 F.3d 207. The "automobile equity exemption" is consistent with the Omnibus Budget Reconciliation Act of 1981 (OBRA). Brown, 46 F.3d at 112 ("[T]he [DHHS's] inaction in respect to modifying the $1,500 figure for inflation is supportable both under OBRA's express language and as a reasonable construction of congressional intent."); Hazard, 44 F.3d at 405 ("[T]he regulation promulgated by the [DHHS] is not inconsistent with the goals of [42 U.S.C.] § 601, as modified by the OBRA amendments, and therefore is not arbitrary or manifestly inconsistent with the statute."); Champion, 33 F.3d at 967-68 ("Nothing in the language of OBRA supports the notion that the [DHHS] is obligated to increase the amount of the exemption absent a congressional directive. . . . In these circumstances, the [DHHS's] failure to adjust the automobile exemption for inflation is not arbitrary and capricious."); Falin v. Sullivan, 776 F. Supp. 1097, 1101 (E.D. Va. 1991), aff'd, 6 F.3d 207 (4th Cir. 1993) ("[N]othing requires the . . . [D]HHS to adjust upwardly automobile limits in response to inflation.").

The decision to adjust the "automobile equity exemption" for inflation falls squarely within the discretion of the DHHS, such that the DHHS could choose not to increase the limit. Brown, 46 F.3d at 112 ("By expressly delegating to the [DHHS] unqualified authority to prescribe the equity amount of the exemption, Congress . . . unequivocally put the ball in the [DHHS's] court."); Hazard, 44 F.3d at 404, 404 n.6 ("[T]he Secretary [of DHHS] was under no duty to adjust the vehicle asset figure for inflation."; "Congress considered the issue . . . in the Family Support Act of 1988 . . . [, and] a conference committee instructed the [DHHS] to review the regulation and

determine whether any revision was appropriate . . . [, but] the [DHHS] decided not to revise the provision.”); Champion, 33 F.3d at 967 (“[I]n 1988[,] a congressional committee directed the [DHHS] to revise the regulation ‘if [the Secretary of the DHHS] determines revision would be appropriate[]’ . . . [, but] the Secretary declined to exercise his discretion.”); Falin, 776 F. Supp. at 1101 (“[T]he court chooses to leave . . . policy decisions [such as increasing the equity exemption] to the discretion of the Secretary [of DHHS] him or herself.”).

Lastly, “even assuming that over time the limit has excluded more and more individuals from AFDC, that is not necessarily inconsistent with the original stated rationale.” Brown, 46 F.3d at 113. Moreover, “nothing in the statute necessarily requires the [DHHS] to include the ‘vast majority’ of AFDC recipients in setting the limit . . . [and] even though an earlier Secretary [of DHHS] emphasized this fact in 1982, nothing obligates the present Secretary to follow the same policy priorities.” Id. (citation omitted).

Because the reasoning of the Brown, Hazard, Champion, and Falin courts thoroughly explains the statutory and regulatory authority for the DHHS’s “inaction” and comports with the deference that we must accord agency decisions, we hold that the DHHS’s failure to adjust the “automobile equity exemption” for inflation was not arbitrary and capricious.

Inasmuch as 42 C.F.R. § 435.845(c) preempts HRS § 346-29, the DHS was not barred from applying the $1,500 AFDC “automobile equity exemption.” See Casumpang v. ILWU, Local 142, 94 Hawaiʻi 330, 339, 13 P.3d 1235, 1244 (2000). 42 C.F.R. § 435.845(c) stated that, "[t]o determine eligibility on the

basis of resources for medically needy individuals, the agency must[,] . . . [f]or individuals under age 21 and caretaker relatives, deduct the value of resources that would be deducted in determining eligibility under the State's AFDC plan . . . ." (Emphases added). The DHHS explained that "[c]aretaker relatives . . . [were] formerly identified in regulations as part of the families with dependent children group[.]" Medicaid Eligibility and Coverage Criteria, 46 Fed. Reg. 47,976, 47,978 (Sept. 30, 1981) (emphasis added).

Thus, pursuant to 42 C.F.R. § 435.845(c), the DHS was required to determine the eligibility of applicants with dependent children, such as Gamboa, by applying the standards established in the Hawai‘i's AFDC plan, which correctly limited applicants to $1,500 of equity in their automobiles. Therefore,

IT IS HEREBY ORDERED that the circuit court's June 13, 2000 judgment against Gamboa and in favor of the DHS and the DHHS from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai‘i, February 9, 2004.

On the briefs:

Stanley E. Levin, of Davis Levin Livingston Grande and Daniel R. Ortiz, Pro Hac Vice, for the plaintiff-appellant Paul M. Gamboa

Wendy J. Utsumi, Deputy Attorney General for defendant/ third-party plaintiff-appellee Lillian Koller, Director, Department of Human Services, State of Hawai‘i

Michael Chun, Assistant United States Attorney, for defendant/third-party defendant-appellee Tommy G. Thompson, Secretary of Health and Human Services