

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant,

Reg No: 200913586

Issue No: 2001

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 13, 2010

Midland County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Lansing, Michigan on May 13, 2010.

ISSUE

Whether the Department properly determined Claimant's Adult Medical Program (AMP) eligibility?

FINDINGS OF FACT

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

1. Claimant was an AMP recipient.
2. On December 29, 2008, the Department received a completed New Hire Employment Report from Claimant. It stated that he had new employment

and his hours would be variable and limited to available hours – 15-20/week. (Exhibit 2)

3. On January 7, 2009, the Department completed a budget based on 18 hours per week which resulted in excess income for AMP benefits. (Exhibit 1, 3-5)
4. On January 7, 2009, the Department mailed Claimant a Notice of Case Action which informed him that his AMP was going to close effective January 21, 2009 due to excess income. (Exhibits 6-10)
5. On January 20, 2009, the Department received the Claimant's hearing request protesting the Department's AMP eligibility determination and informing the Department that his earnings were significantly reduced. (Exhibit 10)
6. On January 21, 2009, the Department spoke with Claimant and told him to bring in his last two checks when he gets his next check (January 23rd) with the intention of completing a new budget to redetermine AMP eligibility based on actual income. (Exhibit 9)
7. Claimant was not able to provide his last two checks to the Department until February 2nd because he had direct deposit, but the Department elected not complete a new budget at that time because the Hearing Summary had already been prepared. A decision was made to just wait for the hearing.

CONCLUSIONS OF LAW

The Adult Medical Program (AMP) is established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. 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

In the instant case, the Department completed a new budget based on Claimant's actual earnings for this hearing. As expected, Claimant would have been eligible for AMP benefits in January 2009 had the decision been to go ahead and complete the

budget with actual earnings at that time. With that said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in determining Claimant's AMP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in determining Claimant's AMP eligibility. Accordingly, the Department's AMP eligibility determination is REVERSED, it is SO ORDERED. The Department shall:

- 1) Reinststate Claimant's AMP benefits retroactive to the closure date.
- 2) Issue Claimant supplemental benefits he is entitled to, if any.
- 3) Notify Claimant in writing of the Department's revised determination.
- 4) Claimant retains the right to request a hearing if he would like to contest the Department's revised determination.

/s/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 26, 2010

Date Mailed: May 27, 2010

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.

SB/tg

cc:

