

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-35899
Issue No: 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 26, 2010
Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on August 26, 2010. Claimant appeared and testified along with his attorney [REDACTED]

ISSUE

Did the Department of Human Services properly close Claimant's Adult Medical Program (AMP) on February 1, 2010 due to excess income?

FINDINGS OF FACT

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

- (1) Claimant was an ongoing recipient of Adult Medical Program (AMP) benefits. Claimant was the grantee on an active case for the Adult Medical Program (AMP) for both he and his wife [REDACTED] [REDACTED] was the grantee on an active case for the Food Assistance Program (FAP) for both she and Claimant.
- (2) On December 29, 2009 the Department received a Semi-Annual Contact Report (DHS-1046) for the Food Assistance Program (FAP) case under [REDACTED] name. The report contained income and expense information for self-employment.
- (3) On January 8, 2010 the income was applied to both Food Assistance Program (FAP) and Adult Medical Program (AMP) cases. A Notice of Case

Action (DHS-1605) was sent to [REDACTED] stating the Food Assistance Program (FAP) benefits would increase. A separate Notice of Case Action (DHS-1605) was sent to Claimant stating both his and [REDACTED] Adult Medical Program (AMP) cases would close February 1, 2010 due to excess income.

- (4) On January 15, 2010 a Notice of Case Action (DHS-1605) was sent to Claimant stating he was denied Medicaid because he was not aged, blind, disabled, under 21, pregnant, or parent/caretaker of dependent child. In the comments section on the first page, the notice also stated that Claimant's Amp program was being closed on this number and rerunning eligibility on his wife's case to determine eligibility.
- (5) On January 15, 2010 a separate Notice of Case Action (DHS-1605) was sent to [REDACTED] stating Medicaid was denied and that both [REDACTED] and Claimant were not eligible because their income exceeds the limit for the program.
- (6) On February 19, 2010 Claimant submitted a request for hearing on the 1/15/2010 Notice of Case Action (DHS-1605) to him.

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 Program Reference Manual (PRM).

In this case Claimant does not dispute the Department's calculation of Claimant's household income. An issue was raised as to whether the Department had used the correct program income limit for a two person household. RFT 236 establishes that the AMP income limit for an individual and spouse living independently is \$425. That is the income limit used in the financial eligibility budget.

The other issue raised in the hearing was timeliness of the hearing request. Claimant asserts that they did not file a timely request for hearing because the information on the notice was confusing. Claimant asked that the request for hearing be considered timely.

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); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curiam of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant's Adult Medical Program (AMP) on February 1, 2010 due to excess income.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 17, 2010

Date Mailed: September 17, 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 90 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.

GFH/alc

cc:

