

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: 2010-34005
Issue No: 2001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 26, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

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 October 26, 2010 in Detroit. The claimant personally appeared and testified under oath.

The department was represented by Marquis Dennings (AP/W).

The Administrative Law Judge appeared by telephone from Lansing.

ISSUE

Did the department correctly deny claimant AMP benefits due to excess income as computed on the February 25, 2010 Bridges budget?

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 is a former AMP recipient.

(2) On February 17, 2010, the caseworker prepared an AMP eligibility budget for the period March through August 2010.

(3) The AMP (Bridges) budget shows unearned income--\$328; AMP income limit--\$316; excess AMP income--\$12.

(4) On February 17, 2010, the caseworker sent claimant a Bridges denial notice stating she was ineligible for AMP due to excess income.

(5) On February 12, 2010, the claimant requested a hearing.

(6) Claimant does not dispute the AMP eligibility budget. She does think that her AMP eligibility should be extended based on her chronic health problems and her dire need for AMP benefits under the general principles of equity.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The preponderance of the evidence in the record establishes that the department correctly budgeted claimant's unearned income (\$328) and compared it with the applicable AMP income limit (\$316). Based on the Bridges budget, claimant had excess income of \$12 for AMP eligibility purposes.

At the hearing, claimant made a cogent argument in favor of her request for continuing AMP benefits. Claimant thinks she was entitled to AMP benefits based on her chronic health problems and her dire need for AMP healthcare under the principles of equity.

Because the caseworker correctly followed the department's policy in calculating claimant's AMP eligibility, claimant is requesting equitable relief. Unfortunately, the undersigned Administrative Law Judge does not have equitable power in this matter. Pursuant to the Delegation of Authority to the undersigned Administrative Law Judge, the Administrative Law Judge has limited authority to modify agency policy:

The administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exception to the department policy set out in program manuals.

Furthermore, the process of administrative adjudication is an executive power rather than judicial power, and does not include the granting of equitable remedies. Michigan Mutual Liability Company v Baker, 295 Mich 237; 294 NW 168 (1940).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly processed claimant's AMP application and correctly denied benefits due to excess income.

Accordingly, the department's action is, hereby, AFFIRMED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 5, 2010

Date Mailed: November 8, 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 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.

JWS/tg

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