

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: 2011 17836

Issue No: 2001

Case No: [REDACTED]

Hearing Date:

[REDACTED]

Oakland County DHS (2)

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 by telephone in Detroit on [REDACTED] at which time the Claimant appeared and testified. [REDACTED], Assistance Payments Supervisor appeared and testified on behalf of the Department.

ISSUE

Was the claimant's application for AMP properly denied 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. The Claimant applied for Adult Medical Assistance (AMP) on [REDACTED] [REDACTED]
2. The Claimant's application was denied on [REDACTED] due to excess income.
3. The Department computed an eligibility budget and determined the Claimant's gross income to be [REDACTED] Exhibit 1 (budget). This income

calculation was based upon verification of the Claimant's income for the months of [REDACTED] [REDACTED] and [REDACTED] prepared by his accountant. Exhibits 2, 3 and 4.

4. The Department did not consider the expenses listed by the Claimant's verification.
5. The Department calculated the monthly gross income based on the three months average of self employment income and granted the Claimant an expense deduction of 25%.
6. The gross income amounts reported by the Claimant's accountant were not disputed by the Claimant.
7. The Department calculated the Claimants net earned income to be [REDACTED]. Exhibit 2
8. The income limit for the Adult Medical program at the time of the budget for two adults was [REDACTED].
9. The Claimant requested a hearing on [REDACTED], protesting the denial of the Claimant's AMP application. The Claimant's hearing request was received by the Department on [REDACTED]

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM) and Reference Tables (RFT).

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).

Claimants must meet all eligibility requirements to receive AMP benefits. BEM 640. Income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640. AMP income limits are contained in RFT 236. The income limit in the current case at the time the application was denied was [REDACTED] for a group of two persons. Only countable income, per BEM 500 is used in determining AMP net income. BEM 640.

Claimant's gross income from self employment was determined by the Department based upon the Claimant's accountant's letters for a three month period. The letters also itemized monthly expenses. The Department's budget calculation did not include the expenses listed in the letter. Instead the Department deducted a flat 25% of the gross income to determine expenses. Based upon the record presented, it cannot be determined whether the Department used the higher amount to determine expenses, or ever requested receipts for the business expenses from the Claimant to determine whether actual expenses or 25% of income was the higher amount. As the Department was made aware of actual expenses, the Claimant should have been given the opportunity to verify actual expenses.

BEM 502 directs how self employment income is to be determined and allows an expense deduction of 25% of the gross income or actual expenses as demonstrated by receipts, whichever amount is **higher** if the client chooses to claim and verify expenses. BEM 502, Page 3. Emphasis supplied. Because the claimant accountant's letters

documented expenses the claimant should have been allowed to claim and verify actual business expenses.

Actual business expenses which can be claimed are:

- Allowable expenses include all of the following:
- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.
- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do **not** allow costs for the provider's own children.
- Any other identifiable expense of producing self-employment income except those listed below. BEM 502, Page 3.

Expenses which cannot be claimed are:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.
- BEM 502, Pages 3 and 4.

Expenses must be verified by actual receipts. BEM 502, Page 6.

Based upon the forgoing facts and conclusion of law it is determined that the Department did not properly calculate the self employment expenses as it did not determine whether 25% or actual expenses was the higher amount, and did not afford the Claimant an opportunity to verify the expenses shown in the letter supplied by the Claimant's accountant. Therefore the Department's determination denying the Claimant's application for AMP based upon excess income must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not correctly compute the Claimant's AMP eligibility budget when it determined claimant's income from self employment, and did not consider actual expenses or seek verification of actual expenses when it determined that the Claimant's earned income from self employment exceeded the income limit for the AMP program.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen and reprocess the Claimant's AMP application of [REDACTED] to determine income eligibility of the Claimant.
2. When computing a budget for determining total earned income from self employment, the Department shall use either 25% of the total income or actual expenses which ever is higher as required by policy.

- 3. The Department shall seek verification from the Claimant of receipts, if any which are required to support the actual expenses associated with the Claimant's self employment income as required by Policy.



Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services


Date Signed: 04/21/11

Date Mailed: 04/25/11

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.

LMF/dj

cc: 
Oakland County DHS (Dist #02) / DHS-1843



Administrative Hearings