

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-31640

Issue No: 2001



Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on April 27, 2011. After due notice, a telephone hearing was held on July 20, 2011. Claimant personally appeared and provided testimony.

ISSUES

Whether the department properly denied Claimant's Adult Medical Program (AMP) application?

FINDINGS OF FACT

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

1. On October 1, 2010, Claimant applied for the Adult Medical Program (AMP). (Hearing Summary).
2. The department mailed Claimant a Notice of Case Action on April 18, 2011, informing Claimant that his AMP application was denied because his income exceeded the limit for the program. (Department Exhibits 2A-2B).
3. Claimant submitted a hearing request on April 27, 2011, protesting the denial of his AMP application. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The

department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Reference Tables Manual (RFT).

Department policy provides that income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640. The AMP income limits are in RFT 236. The department must use only available income. Available income means income which is received or can reasonably be anticipated. Available income includes amounts garnished from income, joint income, and income received on behalf of a person by his representative. BEM 640. The department averages income received in one month which is intended to cover several months by dividing the income by the number of months it covers to determine the monthly available income. The average amount is considered available in each of the months. When determining income from the past month, use the amount actually received in the past month. BEM 640.

For the individual income deduction, [REDACTED] is deducted from a program group member's gross earnings. An additional 20% is then deducted of the person's remaining gross earnings. The total disregard cannot exceed the person's gross earnings. BEM 640.

A claimant with a group size of one has a maximum income limit of [REDACTED]. RFT 236. Because Claimant's actual net income of [REDACTED] exceeded the allowable AMP monthly income limit of [REDACTED] Claimant is not entitled to AMP benefits.

In this case, Claimant does not dispute the income the department used in calculating his eligibility for the AMP program. Instead, Claimant testified that he is trying to seek some help in obtaining medical attention for his nerve disorder which his own insurance does not cover.

While this Administrative Law Judge acknowledges Claimant's genuine concern of paying for healthcare for his nerve disorder, she is bound by the laws and regulations governing the issuance of AMP benefits, on which the department's policies are based. An extensive review of Claimant's budget by this Administrative Law Judge before rendering this Hearing Decision shows that all calculations were properly made at review, and all AMP issuance/budgeting rules were properly applied.

Claimant's grievance centers on dissatisfaction with the department's current policy. Claimant's request that his AMP application be approved is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, 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). As such, the department's denial of his AMP application must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's AMP eligibility.

The department's AMP eligibility determination is AFFIRMED.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/20/11

Date Mailed: 7/20/11

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 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.

VLA/ds

■ [REDACTED]