

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-35111

Issue No: 3002; 2001

[REDACTED]

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 May 23, 2011. After due notice, a telephone hearing was held on July 7, 2011. Claimant personally appeared and provided testimony.

ISSUES

1. Whether the department properly determined Claimant's Food Assistance Program (FAP) benefits?
2. Whether the department properly closed Claimant's Adult Medical Program (AMP)?

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 May 11, 2011, the department discovered Claimant received a lump sum of [REDACTED] in Unemployment Compensation Benefits (UCB) on March 14, 2011. (Department Exhibits 1-3).
2. The department mailed Claimant a Notice of Case Action on May 11, 2011, informing Claimant that her AMP benefits were closing effective June 1, 2011 because her countable assets were in excess of the [REDACTED] limit. The Notice also informed Claimant that her FAP was being decreased to [REDACTED] a month for the period of June 1, 2011 through October 31, 2011 based on the change in her net income. (Department Exhibits 10-12).

3. Claimant submitted a hearing request on May 23, 2011, protesting the reduction of FAP benefits and closure of the AMP benefits. (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).

Assets must be considered in determining eligibility for AMP. The department considers only Cash (which includes savings and checking accounts), Investments, Retirement Plans and Trusts. Assets are defined as cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles). Countable assets cannot exceed the applicable asset limit. BEM 400.

The department determines asset eligibility prospectively using the asset group's assets from the benefit month. Asset eligibility exists when the group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. The Adult Medical Program asset limit is [REDACTED]. BEM 400.

Lump-sums and accumulated benefits are assets starting the month received. A person might receive a single payment that includes both accumulated benefits and benefits intended as a payment for the current month. Treat the portion intended for the current month as income. Lump sums and accumulated benefits are income in the month received. BEM 400.

In this case, Claimant received a lump sum of unemployment benefits on March 14, 2011 for the past seven months of unemployment in the amount of [REDACTED]. According to the Unemployment Compensation documentation, Claimant was receiving [REDACTED] every two weeks. The department properly subtracted the [REDACTED] from the [REDACTED] 0 as the intended income for the month of March which left an accumulated benefit of [REDACTED] 0. According to policy, the [REDACTED] became an asset the month of March, when it was received. The asset limit for AMP is [REDACTED]. Because Claimant

received over \$3,000.00 in the month of March, she was over the asset limit and therefore the department properly denied Claimant AMP benefits.

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The department then computed Claimant's FAP budget based on her receipt of unemployment benefits. For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. 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.

Claimant was receiving monthly unearned income in the amount of [REDACTED] at the time relevant to this matter. The department subtracted the standard deduction of [REDACTED], which left an adjusted gross income of [REDACTED]. BEM 556. An excess shelter deduction of [REDACTED] was also subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income.

Federal regulations at 7 CFR 273.10 provide standards for income and the amount of household benefits. In accordance with the federal regulations, the department has prepared income and issuance tables which can be found at RFT 260. This issuance table provides that a household size of one with net income of [REDACTED] is entitled to a [REDACTED] FAP allotment. Therefore, the department's FAP eligibility determination was correct based on Claimant's unemployment income.

Claimant objects to the closure of her AMP benefits and to the decrease in FAP benefits. Claimant credibly testified that she was a diabetic and needed her medical coverage to pay for her medication. Claimant stated that she had been scheduled for surgery but it had been canceled as a result of her AMP benefits closing.

While this Administrative Law Judge acknowledges Claimant's genuine concern for her health because she can no longer afford her diabetes medications or surgery, she is bound by the laws and regulations governing the issuance of AMP and FAP benefits, on which the department's policies are based. An extensive review of Claimant's disputed budgets by this Administrative Law Judge before rendering this Hearing Decision shows that all calculations were properly made at review, and all AMP and FAP issuance/budgeting rules were properly applied.

Claimant's grievance centers on dissatisfaction with the department's current policy. Claimant's request that her AMP benefits be reinstated 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 reduction of Claimant's FAP allotment and closure of her AMP benefits 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 FAP and AMP eligibility.

The department's FAP and AMP eligibility determinations are AFFIRMED.

It is SO ORDERED.

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

Date Signed: 7/11/11

Date Mailed: 7/11/11

**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]