

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. 20112689
Issue No. 2001
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: December 14, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on December 14, 2010. Claimant personally appeared and testified.

ISSUE

Did the department properly deny claimant's October 1, 2010 Adult Medical Program (AMP) application based on 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. On October 1, 2010, claimant applied for AMP benefits.
2. At application the department verified claimant was receiving [REDACTED] in biweekly [REDACTED] [REDACTED] [REDACTED] (Department Exhibit #1, pgs 1-3).
3. This income exceeds the department's monthly AMP income limit ([REDACTED]), as set forth in their policy at RFT 236, pg 1.
4. When the department notified claimant in writing his application was being denied based on excess income he filed a hearing request dated October 13, 2010, which states in relevant part:

My Adult Medical was denied because my income exceeds the limit. I don't understand their decision because I only receive [REDACTED] a month from [REDACTED] and my [REDACTED] benefit is about to end...

5. At hearing the department's witness testified credibly she fully explained to claimant when he filed his hearing request that he should file a new AMP application before the program's open enrollment period expired at the end of November 2010.
6. This worker further explained to claimant that, if he was no longer receiving [REDACTED] by that time, he could possibly qualify for AMP as long as he met all the other financial and non-financial requirements.
7. Claimant responded he would just wait for the outcome of the hearing instead.
8. At hearing, claimant admitted he had excess income; however, he attempted to base his case on "miscommunication."

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 applicable departmental policy states:

INCOME

DEPARTMENT POLICY

All Programs

The group composition and program budgeting items specify whose income to count. The program budgeting items might also contain program-specific income deductions or disregards.

Income means benefits or payments measured in money. It includes money a person owns even if NOT paid directly such as stock dividends automatically reinvested and income paid to a representative.

Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means all income that is NOT earned income. The item specifies whether the income is earned or unearned.

The amount of income counted may be more than the amount a person actually receives, because it is the amount before any deductions including deductions for taxes and garnishments. The amount before any deductions is called the **gross** amount. PEM, Item 500, p. 1.

UNEMPLOYMENT BENEFITS

All Programs

Unemployment benefits include:

- . Unemployment Compensation Benefits (UCB) available through the Michigan Unemployment Agency and comparable agencies in other states, and
- . Supplemental Unemployment Benefits (SUB pay) from an employer or other source.

Count the gross amount as unearned income. PEM, Item 500, p. 34.

The material, relevant facts of record are not in dispute in this case. Claimant's monthly UCB amount exceeded the AMP limit when he applied for benefits in October 2010; consequently, the department had no alternative but to deny his application. Furthermore, this Administrative Law Judge finds the department fully and fairly advised claimant of the option to reapply before the end of November 2010, which he simply chose to disregard. As such, no basis exists in fact, law or policy to reverse the department's decision. Put simply, the department's actions must be upheld because they are in complete compliance with the governing rules.

Claimant's grievance centers on dissatisfaction with the department's current policy. 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).

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DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied claimant's October 1, 2010 AMP application based on excess income.

Accordingly, this department's action is AFFIRMED.

_____/s/_____
Marlene B. Magyar
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 21, 2010

Date Mailed: December 21, 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 60 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.

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