

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

IN THE MATTER OF:



Reg. No.: 201266134
Issue No.: 2001; 2013
Case No.: [REDACTED]
Hearing Date: March 11, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 11, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Assistance Payment Worker, and [REDACTED], Assistance Payment Supervisor.

ISSUE

With respect to the Adult Medical Assistance (AMP) Program, did the Department properly deny Claimant's application? close Claimant's case?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of AMP benefits.
2. In connection with a July 2012 redetermination, the Department determined that Claimant's income exceeded the AMP income limit.
3. On July 12, 2012, the Department sent Claimant a Notice of Case Action notifying him that his AMP case would close due to excess income.
4. On July 19, 2012, Claimant timely requested a hearing disputing the Department's action.

5. The Department reinstated Claimant's AMP benefits pending the hearing.
6. In January 2013, Claimant submitted a Semi-Annual Contact Report concerning his ongoing AMP eligibility.
7. On January 31, 2013, the Department sent Claimant a Notice of Case Action advising him that his AMP case would close effective March 1, 2013, due to excess income.
8. On February 4, 2013, Claimant appeared for the hearing concerning the July 12, 2012 Notice of Case Action, but the hearing did not take place.
9. On February 4, 2013, Claimant filed a request for hearing disputing the Department's January 31 2012, Notice of Case Action.
10. On February 8, 2013, an Order of Dismissal was issued dismissing Claimant's February 4, 2013 hearing for failure to appear.
11. On February 20, 2013 an Order Vacating the Dismissal and Order to Schedule Matter for Hearing was issued.

CONCLUSIONS OF LAW

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.* Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM) and the Department of Human Services Reference Tables Manual (RFT).

The hearing addressed the Department's closure of Claimant's AMP case for excess income, following the July 2012 redetermination and the January 2013 Semi-Annual Contact Report.

The Department concluded that Claimant's net income, based on his earned income reported in connection with his July 2012 redetermination and his January 2013 Semi-Annual Contact Report, exceeded the AMP income limit. Income eligibility for AMP coverage exists when the AMP group's net income does not exceed the group's AMP income limit. BEM 640 (October 1, 2010), p 3. The AMP income limit for Claimant, an individual in an independent living arrangement, is \$316. RFT 236 (April 1, 2009), p 1.

The Department must prepare a future month budget at redetermination to determine a client's ongoing eligibility for Medical Assistance (MA) using amounts that will be, or are likely to be, received in the future month. BEM 530 (August 1, 2008), p 1; BEM 640, p 4. When the amount of income from a source changes from month to month, the Department must estimate the amount that will be, or is likely to be, received in the future month. BEM 640, p 4. For example, for fluctuating earned income, the

Department should use the expected hourly wage and hours to be worked, as well as the pay day schedule, to estimate gross earnings. BEM 640, p 4.

In this case, the Department testified that, in connection with determining Claimant's ongoing AMP income eligibility at the time of his July 2012 redetermination, it considered the following prior employment income: (1) \$66 received on May 25, 2012, (2) \$231 received on June 1, 2012, (3) \$214.50 received on June 8, 2012, and (4) \$198 received on June 15, 2012. Claimant contended that his weekly hours, and therefore weekly pay, fluctuated considerably and he had advised the Department of this fact. Additional paystubs submitted by Claimant for May 18, 2012, May 11, 2012, and May 4, 2012, showed less hours worked and supported Claimant's testimony. However, because Claimant testified that he never knew the number of hours he would be expected to work, the Department acted within its discretion when it considered Claimant's paychecks received between May 25, 2012 and June 15, 2012 in calculating his future income, particularly where the June 2012 income showed an increase over the May 2012 income. Because Claimant's gross monthly income based on the four payments considered was \$709, the Department acted in accordance with Department policy when it calculated Claimant's gross monthly income for AMP purposes. BEM 530, p 3; BEM 640, p 4.

To determine a client's net income for AMP eligibility purposes, the Department must deduct \$200 from the client's gross earnings, then deduct 20% from the client's remaining gross earnings. BEM 640, p 4. Based on gross income of \$709, Claimant's monthly net income using this formula is \$407. Because \$407 exceeds the \$316 AMP net income limit, the Department acted in accordance with Department policy when it concluded, based on Claimant's July 2012 redetermination, that Claimant was no longer income-eligible for AMP.

Because Claimant continued to receive AMP coverage after July 2012 because he had timely requested a hearing with respect to the pending closing of his AMP case for excess income, the Department testified that Claimant was required to complete a Semi-Annual Contact Report in January 2013. As a result of the income reported in connection with this report, the Department again concluded that Claimant had excess income. Because the paystubs Claimant submitted in connection with the Semi-Annual show income greater than that considered in the July 2012 redetermination, the Department acted in accordance with Department policy when it closed Claimant's AMP case effective March 1, 2013 based on excess income.

At the hearing, Claimant testified that his employment hours had again decreased since the January 2013 Semi-Annual. The AMP program is scheduled to reopen for the month of April 2013. Claimant is advised to reapply for AMP benefits when the program reopens to allow the Department to determine his eligibility under his current income.

Based on the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application. improperly denied Claimant's application.


properly closed Claimant's case. improperly closed Claimant's case.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly. did not act properly.

Accordingly, the Department's AMP decision is AFFIRMED REVERSED for the reasons stated above and on the record.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/13/2013

Date Mailed: 3/13/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

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cc:

