

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-9212
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: December 1, 2011
County: Wayne (55)

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 December 1, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED], Assistant 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 applied for was a recipient of AMP benefits.
2. Claimant was was not living with a spouse during the time period in question.
3. The Department denied Claimant's application closed Claimant's case due to excess income.

4. On September 30, 2011, the Department sent notice of the denial closure to Claimant.
5. On October 17, 2011, Claimant filed a hearing request, protesting the denial of the application. closure of the case.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Additionally, at the hearing, Claimant clarified that he had requested a hearing only with respect to the closure of his AMP case and did not have any concerns with respect to his Food Assistance Program (FAP) benefits. The Department testified that it had closed Claimant's AMP case effective November 1, 2011, on the basis that his net income exceeded the AMP income limit and not because of a failure to return verifications, as it had indicated in its hearing summary.

Income eligibility for AMP coverage exists when the AMP group's net income does not exceed the group's AMP income limit. BEM 640. The AMP income limit for Claimant, an individual in an independent living arrangement, is \$316. RFT 236.

In this case, the Department calculated Claimant's gross income as \$800. After applying a gross earning deduction of \$200 plus an additional deduction totaling 20% of the remaining gross earnings as provided in BEM 640, the Department concluded that Claimant had a net income of \$480. Because Claimant's net income exceeded the AMP income limit of \$316, the Department closed Claimant's AMP case.

At the hearing, however, Claimant contended that the Department improperly calculated his gross income. The Department testified that it relied on a Verification of Employment completed and submitted by Claimant's employer, which listed Claimant's hourly pay as \$10.15 at 40 hours per week, in determining his gross monthly income. However, the Department conceded that there was a handwritten notation on the Verification stating "hours are subject to change due to payroll." When the Department is on notice that a client's income may fluctuate due to changes in the number of hours worked, it should consider consulting with the client to help establish future income and determine the expected hourly wage and hours to be worked. BEM 530.

In this case, the Department should have considered the handwritten notation and further considered Claimant's income before calculating his gross income for the AMP budget. Claimant credibly testified that he did not regularly work 40

hours per pay period. He testified that he worked more hours when he first began his job in August, while other employees were on vacation, but had worked less hours since then. Paystubs provided by Claimant to the Department showed that, for November 2011, Claimant worked just over 20 hours each pay period, significantly less than the 40 hours reported in the Verification of Employment. By failing to consider the possibility of Claimant's fluctuating income, the Department did not act in accordance with Department policy. Although the Department noted that the notation was handwritten and not initialed, there was evidence at the hearing that the Verification of Employment was sent to the Department directly from Claimant's employer, making it unlikely that the document had been tampered with by someone other than the employer.

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.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the negative case action closing Claimant's AMP case effective November 1, 2011;
2. Begin reprocessing Claimant's continued eligibility under the AMP program by recalculating Claimant's AMP budget, in accordance with Department policy;
3. Provide coverage to Claimant under the AMP program from November 1, 2011, ongoing for the period during which Claimant continues to be eligible under the program in accordance with Department policy; and

2012-9212

4. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: December 14, 2011

Date Mailed: December 14, 2011

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/ctl

cc: [REDACTED]
Wayne County DHS (55)/1843

[REDACTED]
A. Elkin

2012-9212

File