

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-38835
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: July 5, 2012
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Kathleen H. Svoboda

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 July 5, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's mother, [REDACTED], who participated as a witness. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

With respect to the Adult Medical Assistance Program (AMP), 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 total countable income of Claimant's household included child support arrearage payments for Claimant as the child, to Claimant's mother in the amount of \$163.79 biweekly.
4. The Department denied Claimant's application closed Claimant's case due to excess income.

5. On March 9, 2012, the Department sent notice of the denial closure to Claimant.
6. On December 27, 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).

On December 14, 2011, the Department sent notice to Claimant of closure of her AMP benefits due to her failing to complete a redetermination. Claimant's mother testified that she has difficulty with receiving mail consistently at her address where they have lived for a number of years. She testified to receiving a letter from the State of Michigan Licensing and Regulatory Agency (LARA) which has her address listed incorrectly by one digit. She testified that the mail is frequently delivered to the wrong address, often provided to the family by a neighbor who received the mail by mistake. Further, she testified to occasions of not receiving mail at all, except for a note from the postal carrier advising of an inability to deliver because the mailbox was blocked by a parked car. Claimant has been an ongoing benefit recipient for several years and is aware of the necessity of compliance with a redetermination. The Department representative, [REDACTED], testified that it is quite possible, based on Claimant's mother's assertions, that Claimant did not receive the redetermination packet. Claimant's mother testified that she "honestly" did not receive the paperwork and Claimant herself wrote directly on her Hearing Request that she did not receive the redetermination form. The testimony of Claimant and her mother is accepted as credible that the redetermination packet was not received.

The Department did reopen Claimant's AMP case due to the filing of a hearing request prior to the action effective date per BAM 600 which reads, in pertinent part:

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action.

Subsequent to reopening Claimant's AMP, on March 9, 2012, the Department did a consolidated inquiry which raised the issue of child support. The Department calculated a new budget using the child support amount and determined Claimant ineligible due to excess income. The Department again closed Claimant's case.

At the hearing, [REDACTED] was not able to provide the policy provisions in Bridges which directed this action, nor was that information provided on the Hearing Summary in response to the portion of the DHS Form 3050 that inquires about the law and regulation or manual item used in taking the action. The only information provided by the Department is "Exhibit 1, consolidated inquiry."

Claimant's mother testified that she receives child support paid directly to her due to arrearage for amounts owed her by Claimant's father. Thus, even though Claimant is 26 years of age, child support payments continue to be paid to the mother through the Friend of the Court. Claimant's mother testified that this income is consistently reported to the Department.

A discussion was had on the record about the appropriateness of attributing this amount as income to Claimant with the resulting effect of rendering her over the limit for AMP eligibility purposes. [REDACTED] was not able to testify with certainty if this was supported by policy, but relied upon the fact the computer-generated closure represented appropriate action based on policy.

In fact, a review of Bridges policy as articulated in BEM 503 reveals that the child support arrearage payments to Claimant's mother may NOT be counted as income to Claimant. BEM 503 contains instructions related to child support payments and, while generally child support is income to the child for whom the support is paid, policy specifically provides an exception for AMP benefits expressly related to arrearages:

Exception: MA & AMP Only - Arrearage payments received by a parent for an adult child, or a child not living in the home, are considered unearned income for the parent. BEM 503.

Thus, the closing of Claimant's AMP benefits based upon the child support arrearage payments to Claimant's mother being incorrectly attributed to Claimant as income or assets was contrary to policy.

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

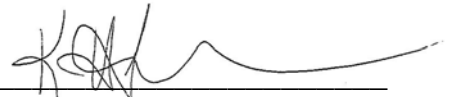
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly. did not act properly.

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

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

1. Initiate the reopening of Claimant's AMP benefits case.
2. Initiate any payments which may be due and owing pursuant to policy retroactive to the date of case closure.



Kathleen H. Svoboda
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2012

Date Mailed: July 10, 2012

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.

2012-38835/KHS

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

KHS/pf

cc:

