

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-45143
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: July 3, 2013
County: SSPC East (98)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 3, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Manager.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) application due to excess income.

FINDINGS OF FACT

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

1. On 4/15/13, Claimant applied for MA benefits.
2. Claimant was only potentially eligible for MA eligibility through the Adult Medical Program (AMP).
3. Claimant received \$500/month in rental income from a non-homestead.
4. On 4/26/13, DHS determined Claimant to be ineligible for AMP benefits because of excess income.

5. On 5/3/13, Claimant requested a hearing to dispute the AMP denial.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). AMP is a category within the MA program.

The present case concerns a denial of MA benefits. It was not disputed that Claimant's only potential MA eligibility was through AMP. It was not disputed that the denial was based on excess income.

For AMP applications, income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640 (10/2010), p. 3. The net income limit for the AMP program for a group size one is \$316. RFT 236 (4/2009), p. 1.

It was not disputed that Claimant's only income was \$500 in monthly rental income of a non-homestead. It was not disputed that Claimant's income was "other rental income".

Bridges determines whether to treat the rent as earned or unearned income based on the time the landlord actively engages in managing the rental property:

- Under 20 hours per week- unearned income.
- 20 or more hours per week- earned income.

BEM 504 (1/2010), p. 2.

Bridges counts the gross rent payment minus allowable expenses as income. *Id.*, p. 3. Bridges allows expenses that are the higher of:

- 65% of the rental payment.
- Actual rental expenses if the landlord chooses to report and verify the expenses.

Id.

DHS presented a budget (Exhibit 1) establishing that DHS labeled Claimant's income as unearned and that Claimant received no budget deductions. The DHS budget calculation appears to contradict DHS policy which allows a minimum 65% deduction for other rental income.

The DHS failure to credit Claimant with any expenses could be justified, if the above policy allowing a 65% expense credit is determined to apply, only if the other rental income is considered self-employment and not unearned income. It was not disputed that Claimant spends less than 20 hour per week managing the residence; thus it is definitively established that Claimant's income was unearned income. An interpretation of giving a budget credit only for self-employment income could be justified because

DHS made a point in distinguishing between self-employment and unearned income based on hours spent managing the property. Distinguishing between unearned and self-employment income appears to be pointless if both types of income receive a 65% budget deduction.

On the other hand, the DHS policy allowing a 65% income deduction, as it is written, appears to apply to all "other rental income", not just other rental income when a property is managed more than 20 hours per week. The above policy allowing deductions is in the "other rental income" section and is not prefaced by any other specific criteria.

From a logic standpoint, there is no particular reason to only allow the credit for properties that are managed more than 20 hours per week. Expenses such as mortgage, taxes, insurance and utilities apply to most types of rentals and could reasonably justify a 65% standard minimum deduction. Based on the above policy analysis, it is found that all "other rental income" is entitled to a minimum 65% budget credit.

The net AMP income limit as of 4/2013 was \$316. RFT 236 (4/2009), p. 1. Per the presented DHS budget, DHS applied a \$336 income limit. For purposes of this decision, the higher and more favorable income limit for Claimant will be accepted as the correct income limit.

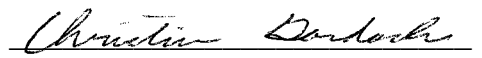
Applying the 65% credit to Claimant's \$500 other rental income results in a net countable income of \$175. Claimant's net income is less than the AMP net income limit. Accordingly, it is found that DHS erred in denying Claimant's AMP income eligibility based on excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit application dated 4/15/13;
- (2) process Claimant's AMP eligibility subject to the finding that Claimant's \$500/month rental income results in a countable net income of \$175; and
- (3) initiate supplement of any benefits improperly not issued.

The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/10/2013

Date Mailed: 7/10/2013

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. (60 days for FAP cases)

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.

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 affect the substantial rights of the claimant,
 - 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

CG/hw

cc:

