

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201352026
Issue No: 2014, 3000
Case No: [REDACTED]
Hearing Date: July 10, 2013
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on June 6, 2013. After due notice, a telephone hearing was held on July 10, 2013 at which Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Macomb County office.

ISSUES

1. Whether Claimant's June 6, 2013 hearing request regarding the October 2012 closure of her Food Assistance Program (FAP) benefits was timely filed?
2. Whether the department properly closed Claimant's Adult Medical Program (AMP) benefits for 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. Claimant was a recipient of AMP benefits at all times relevant to this hearing.
2. On March 25, 2013, the department received Claimant's completed redetermination paperwork regarding the AMP program. (Department Exhibit 3)
3. On May 28, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) informing her that, effective July 1, 2013, her AMP benefits would be closed for the reason that her income amount exceeds the limit for the program. (Department Exhibits 4, 5)

4. On June 6, 2013, Claimant requested a hearing, protesting the department's closure of her AMP benefits, as well as the closure of her FAP benefits. (Request for Hearing)

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. Mich Admin Code R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011). The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) was established pursuant to the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The department administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

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

Department policy provides that income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640. The AMP income limits are in RFT 236. The department must use only available income. Available income means income which is received or can reasonably be anticipated. Available income includes amounts garnished from income, joint income, and income received on behalf of a person by his representative. BEM 640. The department averages income received in one month which is intended to cover several months by dividing the income by the number of months it covers to determine the monthly available income. The average amount is considered available in each of the months. When determining income from the past month, the department uses the amount actually received in the past month. BEM 640.

In this case, Claimant's hearing request challenges the department's closure of her FAP benefits and the department's closure of her AMP benefits effective July 1, 2013 due to excess income.

At the July 10, 2013 hearing in this matter, the department's representative testified that the department closed Claimant's FAP benefits in October 2012 and, as such, Claimant's June 6, 2013 hearing request is untimely because it was not filed within 90 calendar days of the FAP closure as required by department policy. The department's representative further testified that, because Claimant's reported monthly income of \$1,165.30 in her April 2013 redetermination paperwork exceeded the income limit for the AMP program, her AMP benefits were closed.

Claimant did not disagree that her June 6, 2013 hearing request regarding the FAP program challenged a negative action taken by the department in October 2012. Nor did Claimant disagree that her reported monthly income as of April 2013, and currently, is \$1,165.30.

A claimant with a group size of one has a maximum income limit of \$316.00. RFT 236. Because Claimant's net income exceeds the allowable AMP monthly income limit of \$316.00, Claimant is no longer eligible for AMP benefits due to excess income.

Accordingly, the Administrative Law Judge finds that based on the competent, material, and substantial evidence presented during the July 10, 2013 hearing, because Claimant's hearing request regarding the FAP program was not within 90 days of the disputed action taken by the department, Claimant's hearing request on that issue was untimely. The Administrative Law Judge further finds that the department properly closed Claimant's AMP benefits case effective July 1, 2013 due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that pursuant to MAC R 400.902; 400.903 and 400.904, Claimant's hearing request regarding the FAP program is **DISMISSED**, because Claimant's hearing request was not submitted timely.

The Administrative Law Judge further decides that the department properly closed Claimant's AMP benefits case effective July 1, 2013 due to excess income. The department's AMP eligibility determination is therefore **UPHELD**.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 11, 2013

Date Mailed: July 12, 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 this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

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A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

