

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-42990
Issue No.: 2014
Case No.: ██████████
Hearing Date: July 18, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on July 18, 2013 from Detroit, Michigan. Claimant's wife, ██████████ray, appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ Eligibility Specialist, and ██████████ Eligibility Specialist.

ISSUE

Due to excess income, did the Department properly close Claimant's Medical Assistance (MA) 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 MA benefits.
2. In connection with a Semi-Annual Review, Claimant's eligibility for MA was redetermined.
3. On April 17, 2013, the Department sent Claimant a Notice of Case Action informing him that his MA case would be closing effective May 1, 2013 due to excess income. (Exhibit 1).
4. On May 19, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105.

In this case, Claimant and his wife were receiving MA under the Adult Medical Program (AMP). After receiving income verifications from Claimant's wife for her employment, the Department determined that the group's income had exceeded the limit for the AMP program, resulting in their ineligibility for MA under the AMP. (Exhibit 1).

Income eligibility for AMP exists when the group's net income does not exceed the program group's AMP income limit. BEM 640 (October 2012), p. 3. At the time the Department closed Claimant's AMP case, the AMP income limit for a couple in an independent living arrangement was \$453.00. RFT 236 (April 2009), p 1.

Additionally, the Department must prepare a future month budget to determine a client's ongoing eligibility for MA when a change is reported using amounts that will be, or are likely to be, received in the future month. BEM 530 (October 2012), pp 1-3; 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 must 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. To determine a client's net income for AMP eligibility purposes, the Department must also deduct \$200 from the client's gross earnings, then deduct 20% from the client's remaining gross earnings. BEM 640, p 4.

At the hearing, the AMP Budget was reviewed. The Department determined that Claimant had earned income of \$878.00. (Exhibit 4). The Department testified that in calculating Claimant's earned income, it considered 30 days' worth of income from the pay stubs received during the month of March 2013. Although the Department presented the pay stubs submitted by Claimant's wife with the semi-annual review, the Department was unable to explain exactly which figures it relied on when making that determination. (Exhibit 2).

Claimant testified that the pay stubs she submitted to the Department for pay periods in March and April 2013 were unusually high and that they included rollover and paid vacation time that she does not normally receive. Claimant stated that she usually works 8 to 12 hours per week and that she gets paid biweekly at a rate of \$8.33 per hour. Claimant's testimony is consistent with the employee payroll information found on

the employment and income verification report that was submitted to the Department with the semi-annual review. (Exhibit 3).

In addition, according to the AMP budget, the Department included \$273.00 as unearned income from Retirement, Survivors, Disability Insurance (RSDI) benefits; however; there was no evidence presented to confirm this amount or support the calculation. (Exhibit 4).

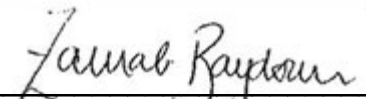
Because the pay stubs used by the Department do not accurately reflect the group's earned income and the unearned income from RSDI remained unexplained after further review of the evidence, the Department did not act in accordance with Department policy when it calculated Claimant's net income and, consequently, AMP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it closed Claimant's AMP case for excess income. Accordingly, the Department's AMP decision is REVERSED.

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

1. Reinstate Claimant's AMP case effective May 1, 2013;
2. Begin reprocessing Claimant's continued eligibility under the AMP program by recalculating Claimant's AMP budget, in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with AMP coverage he was eligible to receive from May 1, 2013, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 8, 2013

Date Mailed: August 8, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ZB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]