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

IN THE MATTER OF:



 Reg. No.:
 2013-53483

 Issue No.:
 2001

 Case No.:
 Issue 14, 2013

 Hearing Date:
 August 14, 2013

 County:
 Wayne (17)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claim ant's request for a hearing. After due notice, a telephone hearing was held on August 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Cla imant, and Claimant's father, on behalf of the Department of Human Services (Department) included Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Adult Medica I Program (AMP) application effective April 1, 2013, ongoing, due to excess income?

FINDINGS OF FACT

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

- 1. On April 1, 2013, Claimant applied for AMP benefits. Exhibit 1.
- 2. On May 22, 2013, the Department sent Clai mant a Notice of Case Action notifying him that his AMP application was denied effective April 1, 2013, ongoing, due to excess income. Exhibit 1.
- 3. On June 17, 2013, Claimant filed a hear ing request, protesting the Depart ment's action. Exhibit 1.

CONCLUSIONS OF LAW

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

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq*.

Regarding AMP applications, income eligibil ity exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640 (October 2012), p. 3. The AM P income limits are in RFT 236. BEM 640, p. 3. RFT 236 states that an income limit for an individual in an independent living arrangement is \$316. RFT 236 (April 2009), p. 1. When the client's living arrangement changes during a month, the Department uses the living arrangement with the higher income limit. BEM 640, p. 3. The Department will only use countable income. BEM 640, p. 3.

Also, the Department uses only available income as well. BEM 640, p. 3. Available means income which is received or can r easonably be antic ipated. BEM 640, p. 3. Available income includes am ounts garnisheed from income, joint income, and income received on behalf of a person by his represent ative. BEM 640, p. 3. The Department does not budget income that re sults from an extra c heck (e.g., 5th check for a person who is paid week Iy). BEM 640, p. 3. F urthermore, BEM 640 lists other factors in determining the calculation of income.

In this case, on April 1, 2013, Claimant applied for AMP benefits. Exhibit 1. On May 22, 2013, the Department sent Claimant a Notice of Case Action notifying him that his AMP application was denied effective April 1, 2013, ongoing, due to excess income. Exhibit 1.

At the hearing, the Department did not present an AMP Income Budget to review for the hearing. The Depar tment te stified that Claim ant's gross inc ome was \$ T he Department testified that it cal culated this amount based on Claimant's submitted application and two pay stubs that Claimant did submit. Claimant's application indicated that he worked an average of 24 hours a w eek, was paid hourly, and was paid every two weeks. See Exhibit 1. Als o, Claimant submitted two pay stubs. The first pay stub indicated the following: pay date was ; Claimant work ed hours; paid hr.; gross income was and net inc ome was See Exhibit 1. The second pay stub indic ated the following: pay date was Claimant worked hours; paid \$ /hr.; gross i ncome was \$ and net income was \$ See Exhibit 1. The Department te stified that it would take both the gross income amounts from the two pay stubs to calculate t he earned inc ome. However, the Department testified that it obtained a gross income of \$ (\$ fi rst pav stub gross second pay stub gross income). However, the Department testified income plus \$ that the AMP budget indicated a gross earned incom e of \$ The Department was unable to testify regarding this difference.

Nevertheless, the Department then applies a \$200 plus 20% earned income deduction for AMP applications. BEM 640, p. 4. The Department subtracts \$200 from the gross earned income of \$ the which results in the amount of \$ the mean the Department applies a 20% earned income deduction to the \$ the which results in a net earned income of \$ the Bee Exhibit 1; BEM 640, p. 4. The Department testified that there is no other child support or spousal support deduction indic ated on the budget. Thus, the Department testified that Claimant's AMP income level of \$ individual income level of \$336. RFT 236, p. 1. Thus, the Claimant's AMP application was denied due to excess income. It should be noted that the Department indicated that the budget shows an AMP income level for an individual of \$336. Howev er, the RFT 236 policy regarding the \$336 AMP income level was effective June 1, 2013, on going. Claimant's applicable benefit period is April 2013. Thus, t he proper AMP income level for an individual is \$316. See RFT 236, p. 1.

At the hearing, Claim ant testified that he disagrees with the calculation of his gross earned income. Claimant testified that he earns an average gross income amount of per month. Claimant testified that he does work an average of hours per week. paid \$ /hr., and is paid biweekly. Claim ant also testified that the pay stub which had did not accurately re flect his pay. See Exhibit 1. Claimant a pay date of testified that he does not normally work the hours as indicat ed in the pay stub. See Exhibit 1. Claimant testified that the pay stub with a pay date was 4/12/2013, accurately reflects his pay. See Exhibit 1. This pay stub indicates Claimant worked hours and received a gross income was \$ Finally, Claimant testified that he does have excessive student loans.

Based on the foregoing information and evidence, the Department properly denied Claimant's AMP applic ation. First, the Department should not have budgeted Claimant's extra hours that he worked for the pay date of BEM 640 states that the Department does not bu dget income that results from an extra chec k (e.g., 5th check for a person who is paid weekly). BE M 640, p. 3. Howev er, if the Department applies a \$200 plus 20% earned income d eduction for Claimant's \$ alleged gross earnings; he would still exceed the income levels. If the Department subtracts \$200 from the gross earned income of \$ this results in the am ount of \$ Then, if the Department applies a 20% earned income deduction to the \$ this result s in a net earned income of \$ This amount still exceeds the individual income level of \$316.

Even though the Department was unable to testify the difference between how it calculated the **Solution** to the **Solution** amount that the budget indicated, this is harmless error. Claimant's own testimony and evidence shows that he still exceeded the income limit. Based on the foregoing information and evidence, the Department properly denied Claimant's AMP application effective April 1, 2013, ongoing, in accordance with Department policy.

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 reco rd, finds that the Department did act properly when it denied Claimant's AMP application effective April 1, 2013, ongoing.

Accordingly, the Department's \boxtimes AMP \square FIP \square FAP \square MA \square SDA \square CDC decision is \boxtimes AFFIRMED \square REVERSED for the reasons stated on the record.

Eric Feldman Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: August 27, 2013

Date Mailed: August 27, 2013

NOTICE: Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order . MAHS will not or der a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 ti mely 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 <u>MAY</u> be granted if there is newly discovered evid ence 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 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

Recons ideration/Rehearing Request

P. O. Box 30639 Lansing, Michigan 48909-07322

2013-53483/EJF

EJF/las

