

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-54430
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: August 19, 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 Claimant's request for a hearing. After due notice, a telephone hearing was held on August 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's wife [REDACTED]. Also, Claimant's son, [REDACTED] [REDACTED] was present as Claimant's interpreter. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Assistant Payment Worker.

ISSUE

Did the Department properly deny Claimant and his wife's Adult Medical Program (AMP) application effective April 1, 2013, ongoing, 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 April 1, 2013, Claimant applied for AMP benefits. Exhibit 1.
2. On June 12, 2013, the Department sent Claimant a Notice of Case Action notifying him that the AMP application was denied effective April 1, 2013, ongoing, due to excess income. Exhibit 1.
3. On June 17, 2013, Claimant filed a hearing request, protesting the Department's action. Exhibit 1.

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

As a preliminary matter, Claimant's wife also applied for Medical Assistance (MA) disability. Due to the application still pending, that MA determination was not addressed at the hearing. See BAM 600 (July 2013), pp. 3-4.

Regarding AMP applications, income eligibility 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 AMP 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 \$ [REDACTED] RFT 236 (April 2009), p. 1. The income limit for an individual and spouse in an independent living arrangement is \$ [REDACTED] RFT 236, 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. Countable income is income remaining after applying the AMP policy in BEM 503 for example. BEM 640, p. 3. Retirement, Survivors and Disability Insurance (RSDI) is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers. BEM 503 (May 2013), p. 21. The Department counts the gross benefit amount as unearned income. BEM 503, p. 21.

Also, the Department uses only available income as well. BEM 640, p. 3. Available means income which is received or can reasonably be anticipated. BEM 640, p. 3. Available income includes amounts garnished from income, joint income, and income received on behalf of a person by his representative. BEM 640, p. 3. The Department does not budget income that results from an extra check (e.g., 5th check for a person who is paid weekly). BEM 640, p. 3. Furthermore, 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 June 12, 2013, the Department sent Claimant a Notice of Case Action notifying him that the AMP application was denied effective April 1, 2013, ongoing, due to excess income. Exhibit 1.

At the hearing, the Department presented an April 2013 AMP Income Budget to review for the hearing. See Exhibit 1. The Department calculated a RSDI income of \$ [REDACTED] which the Claimant did not dispute. There is no other child support or spousal support deduction indicated on the budget. See Exhibit 1. Thus, the Department testified that Claimant's AMP income level of \$ [REDACTED] exceeds the individual and spouse income level. RFT 236, p. 1. Thus, the Department testified that the AMP application was denied due to excess income.

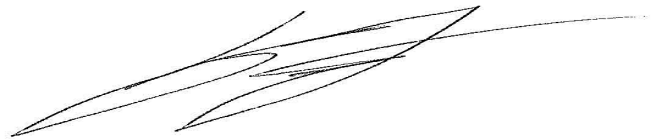
It should be noted that the budget indicates the AMP income level for an individual and spouse in an independent living arrangement is \$ [REDACTED]. See RFT 236 (June 2013), p. 1 and Exhibit 1. However, the RFT 236 policy regarding the \$ [REDACTED] AMP income level was effective June 1, 2013, ongoing. Claimant's applicable benefit period is April 2013. Thus, the proper AMP income level for an individual and spouse is \$ [REDACTED]. See RFT 236 (April 2009), p. 1.

Nevertheless, based on the foregoing information and evidence, the Department properly denied Claimant's and his wife's AMP application on effective April 1, 2013, ongoing, in accordance with Department policy. It is harmless error that the Department did not apply the correct AMP monthly income limit because Claimant's unearned income still exceeds the \$ [REDACTED] limit. See R FT 236, p. 1. Claimant agreed that he receives \$ [REDACTED] in RSDI payments. Thus, the Department properly denied the AMP application effective April 1, 2013, ongoing, due to excess income.

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 act properly when it denied the AMP application effective April 1, 2013, ongoing.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is **AFFIRMED** 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 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.

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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

EJF/las

cc:

