

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-51772
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: August 12, 2013
County: SSPC-East (98)

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 three-way telephone hearing was held on August 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Department Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Adult Medical Program (AMP) application effective February 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 25, 2013, Claimant applied for AMP benefits and sought Medical Assistance (MA) coverage back to February 2013.
2. On May 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her AMP benefits were denied effective February 1, 2013, ongoing, due to excess income. Exhibit 1.
3. On June 8, 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, the Notice of Case Action dated May 31, 2013, only states that Claimant was denied for MA benefits. See Exhibit 1. A review of the Notice of Case Action does not indicate a denial of AMP benefits. See Exhibit 1. The Notice of Case Action does indicate a denial of MA benefits for excess income. See Exhibit 1. The Department testified that AMP benefits will fall under the denial reasons of MA benefits. Moreover, Claimant's request for hearing stated that she was disputing her "Adult Benefit waiver program." See Exhibit 1. It was determined during the hearing that Claimant was disputing the denial of her AMP application.

It should also be noted that the Eligibility Summary indicated that Claimant was denied for MA coverage for February and March 2013. See Exhibit 1. Moreover, the Eligibility Summary indicated that Claimant was denied for AMP benefits effective April 1, 2013, ongoing. See Exhibit 1. Based on the foregoing information, this hearing decision will address the AMP denial.

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. 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 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 25, 2013, Claimant applied for AMP benefits and sought MA coverage back to February 2013. On May 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her AMP benefits were denied effective February 1, 2013, ongoing, due to excess income. Exhibit 1.

At the hearing, the Department presented an AMP Income Budget to review for the hearing. See Exhibit 1. The Department testified that Claimant's gross income was [REDACTED]. The Department testified that it calculated this amount based on Claimant's submitted application. The application indicated that Claimant was paid hourly, earned

█████ hr., and worked 40 hours a week. See Exhibit 1. Claimant agreed with these figures. Thus, the Department testified it calculated an average weekly earnings of █████ (█████/hr. multiply 40 hours a week). Then, the Department multiplied █████ times 4 weeks, which results in average monthly earnings of █████.

Then, the Department applies a █████ plus 20% earned income deduction for AMP applications. The Department subtracts █████ from the gross earned income of █████, which results in the amount of █████. Then, the Department applies a 20% earned income deduction to the █████, which results in a net earned income of █████. See Exhibit 1; BEM 640, p. 4. There is no other child support or spousal support deduction indicated on the budget. Thus, the Department testified that Claimant's AMP income level of █████ exceeds the individual income level of █████. RFT 236, p. 1. Thus, the Department testified Claimant's AMP application was denied due to excess income.

It should be noted that the budget indicates the AMP income level for an individual is █████. See Exhibit 1. However, the RFT 236 policy regarding the █████ AMP income level was effective June 1, 2013, ongoing. Claimant's applicable benefit period is February 2013. Thus, the proper AMP income level for an individual is █████. See RFT 236, p. 1.

First, Claimant testified that she disagrees with the calculation of her gross earned income. Claimant testified that she earns an average gross income amount of █████ - █████ per month. Claimant did not present any pay stubs at the hearing. However, if the Department applies a █████ plus 20% earned income deduction for Claimant's █████ alleged gross earnings; she would still exceed the income levels. If the Department subtracts █████ from the gross earned income of █████, this results in the amount of █████. Then, if the Department applies a 20% earned income deduction to the \$600, this results in a net earned income of █████. This amount still exceeds the individual income level of █████. Nevertheless, the Department properly calculated Claimant's gross income based on her submitted application.

Second, Claimant testified that the Department should have applied additional deductions such as phone, car, and food. However, the Department does not apply these deductions per BEM 640. See BEM 640, p. 4. The only deduction the Department applies is the child support paid or spousal support paid when determining excess income. BEM 640, p. 4. Claimant indicated she does have child support, but was not paying for it at the time of application. The Department properly excluded any child support deduction due to Claimant not paying at the time of application.

Based on the foregoing information and evidence, the Department properly denied Claimant's AMP application effective February 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 record, finds that the Department did act properly when it denied Claimant's AMP application effective February 1, 2013, ongoing.

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

/s/

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

Date Signed: 08/26/2013

Date Mailed: 08/26/2013

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

EF/sw

cc:

