

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53483
Issue No.: 2001
Case No.: [REDACTED]
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 Claimant'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 Claimant, and Claimant's father, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant'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 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.
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.*

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 \$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 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 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 Department testified that Claimant's gross income was \$ [REDACTED]. The Department testified that it calculated 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 week, was paid hourly, and was paid every two weeks. See Exhibit 1. Also, Claimant submitted two pay stubs. The first pay stub indicated the following: pay date was [REDACTED]; Claimant worked [REDACTED] hours; paid \$ [REDACTED]/hr.; gross income was [REDACTED]; and net income was [REDACTED]. See Exhibit 1. The second pay stub indicated the following: pay date was [REDACTED]; Claimant worked [REDACTED] hours; paid \$ [REDACTED]/hr.; gross income was \$ [REDACTED] and net income was \$ [REDACTED]. See Exhibit 1. The Department testified that it would take both the gross income amounts from the two pay stubs to calculate the earned income. However, the Department testified that it obtained a gross income of \$ [REDACTED] (\$ [REDACTED] first pay stub gross income plus \$ [REDACTED] second pay stub gross income). However, the Department testified that the AMP budget indicated a gross earned income of \$ [REDACTED]. 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 \$ [REDACTED] which results in the amount of \$ [REDACTED]. Then, the Department applies a 20% earned income deduction to the \$ [REDACTED] which results in a net earned income of \$ [REDACTED]. See Exhibit 1; BEM 640, p. 4. The Department testified that 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 \$ [REDACTED] exceeds the individual income level of \$336. RFT 236, p. 1. Thus, the Department testified 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. However, 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, the proper AMP income level for an individual is \$316. See RFT 236, p. 1.

At the hearing, Claimant testified that he disagrees with the calculation of his gross earned income. Claimant testified that he earns an average gross income amount of \$[REDACTED] per month. Claimant testified that he does work an average of [REDACTED] hours per week, paid \$[REDACTED]/hr., and is paid biweekly. Claimant also testified that the pay stub which had a pay date of [REDACTED] did not accurately reflect his pay. See Exhibit 1. Claimant testified that he does not normally work the [REDACTED] hours as indicated 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 [REDACTED] hours and received a gross income was \$[REDACTED]. Finally, Claimant testified that he does have excessive student loans.

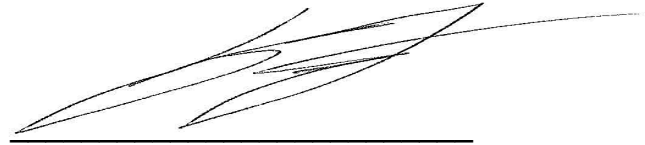
Based on the foregoing information and evidence, the Department properly denied Claimant's AMP application. First, the Department should not have budgeted Claimant's extra hours that he worked for the pay date of [REDACTED]. BEM 640 states that the Department does not budget income that results from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

Even though the Department was unable to testify to the difference between how it calculated the \$[REDACTED] to the \$[REDACTED] 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 record, finds that the Department did act properly when it denied Claimant's 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.

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

2013-53483/EJF

EJF/las

cc:

