

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013953
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: March 21, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 21, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly close Claimant's Adult Medical Program (AMP) case for 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. Claimant was an ongoing recipient of AMP benefits.
2. In connection with her redetermination, the Department sent Claimant a Verification Checklist (VCL) on June 4, 2012, requesting, in relevant part, verification of her employment with Prometric and with her friend (Powers Day Care) by June 14, 2012.
3. Based on the documentation provided, the Department calculated Claimant's income eligibility for AMP coverage to include Claimant's income from employment with both Prometric and Powers.

4. On June 25, 2012, the Department sent Claimant a Notice of Case Action notifying her that her AMP case would close effective August 1, 2012, because Claimant had excess income.
5. On September 14, 2012, Claimant filed a request for hearing disputing the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services 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.*

Additionally, the Department did not provide a Notice of Case Action in this case, but testified that Claimant's AMP closed effective August 1, 2012 because Claimant's income exceeded the AMP income limit. Income eligibility for AMP coverage exists when the AMP group's net income does not exceed the group's AMP income limit. BEM 640 (October 1, 2010), p 3. The AMP income limit for Claimant, an individual in an independent living arrangement, is \$316. RFT 236 (April 1, 2009), p 1.

In this case, the Department did not provide a budget showing the calculation of Claimant's net income. The Department testified, however, that in calculating Claimant's monthly net income, it considered Claimant's income during the redetermination month, June 2010, from Prometrics and Powers Day Care (a day care facility owned by Claimant's friend).

At the hearing, Claimant testified that her employment at Prometric was terminated prior to the time she completed the redetermination and that she had informed her worker of this occurrence during her redetermination interview. The Department sent Claimant a June 4, 2012 VCL requesting, in relevant part, proof of employment with Prometric, indicating that she "must report income even if you ar[e] no longer employed. Employer must sign, date and provide valid business address and phone number. Employer must attach history of pay which should include gross income and hours worked for each pay date." The VCL sent to Claimant included a Verification of Employment (VOE) (DHS-38) with Prometric identified as the employer. The VCL also requested proof of Claimant's employment with Powers Day Care and stated that "a letter signed by your friend [Powers] is sufficient. Friend must sign, date and provide valid phone number and address."

On June 13, 2012, Claimant submitted an unsigned, partially completed VOE that identified Prometric as the employer and a handwritten note from Powers Day Care, which Claimant admitted at the hearing that she had prepared and signed. The Department testified that it informed Claimant that the submitted verifications were

insufficient and extended the due date to provide verifications to June 24, 2012. The Department acknowledged that Claimant notified the Department that she was unable to get Prometric to provide any documentation of her end of employment and provided the Department with several telephone numbers and contact names for Prometric. The Department testified that it attempted to contact Prometric and was referred to various individuals, but no one was able to provide any information concerning Claimant's employment with the company. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department must use the best available information or, if no evidence is available, its best judgment. BAM 130, (May 1, 2012), p 3. In this case, the Department testified that the best available evidence established that, as of June 2012, Claimant was no longer employed with Prometric. Thus, the Department did not act in accordance with Department policy when it considered Claimant's income from Prometric in calculating her income eligibility for AMP coverage.

Furthermore, the Department testified that it received verification from Powers Day Care on July 24, 2012, that Claimant was no longer employed at Powers as of June 22, 2012. The Department contended that, because Claimant's case was set to close by June 30, 2012, as a result of the redetermination but had been kept open until July 31, 2012, because the Department had extended the time to provide verification of income, it was required to consider only information pertaining to Claimant's income in June 2012, and not her loss of income. The Department also noted that Claimant was required to submit requested verifications by June 24, 2012, well before Claimant notified the Department that her employment with Powers had ended. However, Claimant reported and verified a change in her employment while her case was active. Because the Department should have considered Claimant's lack of income from Powers for future months in calculating her AMP eligibility, the Department did not act in accordance with Department policy when it closed Claimant's case for excess income based on income from Powers. See BEM 640, p 4; see also BAM 220 (July 1, 2012), p 10.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC DSS.

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 .
 did not act properly when it closed Claimant's AMP case based on excess income.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

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 as of August 1, 2012;
2. Begin reprocessing Claimant's redetermination in accordance with Department policy and consistent with this Hearing Decision;
3. Provide Claimant with AMP coverage she is eligible to receive but did not from August 1, 2012, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/28/2013

Date Mailed: 3/28/2013

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 effect the substantial rights of the claimant:
 - the 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

ACE/hw

cc:

