

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201226647  
Issue No: 2014  
Case No: [REDACTED]  
Hearing Date: February 29, 2012  
Calhoun County DHS

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on December 22, 2011. After due notice, a telephone hearing was held on Wednesday, February 29, 2012.

**ISSUE**

Whether the Department of Human Services (Department) properly applied the Claimant's Retirement, Survivors, and Disability Insurance (RSDI) cost-of-living allowance towards her Medical Assistance (MA) benefits?

**FINDINGS OF FACT**

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

1. The Claimant is an ongoing Medical Assistance (MA) recipient as a group of one, and was receiving benefits under the Freedom to Work category, which is a SSI related category of Medical Assistance (MA).
2. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of [REDACTED], which includes a cost-of-living allowance.
3. On December 19, 2011, the Department closed the Claimant's Medical Assistance (MA) in the Freedom to Work category due to excess income.
4. The Department received the Claimant's request for a hearing on December 22, 2011, protesting the closure of her Medical Assistance (MA) in the Freedom to Work category.

## **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

In this case, the Claimant is an ongoing Medical Assistance (MA) recipient as a group of one, and was receiving benefits under the Freedom to Work category, which is a SSI related category of Medical Assistance (MA). The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$943.90. The unearned income limit for participation in the Freedom to Work program is \$908. RFT 246. On December 19, 2011, the Department closed the Claimant's Medical Assistance (MA) in the Freedom to Work category due to excess income.

The Department found the Claimant eligible for Medical Assistance (MA) under another category, and the Claimant requested a hearing on December 22, 2011, protesting the closure of her Medical Assistance (MA) under the Freedom to Work category.

The Claimant did not dispute the Department's determination of her unearned income due to Retirement, Survivors, and Disability Insurance (RSDI) benefits, but argued that it was improper for the Department to apply a cost-of-living allowance issued by the Social Security Administration to its determination of her eligibility for Medical Assistance (MA) under Freedom to Work.

The Department determined the income limit for participation in the Freedom to Work program as directed by Bridges Eligibility Manual (BEM) Item 174, which indicates that income eligibility exists when the client's net unearned income does not exceed 100 percent of the Federal Poverty Level (FPL). This unearned income level is listed in RFT 246 is \$908 for a group of one.

The Claimant argued that federal law prohibits the Department from considering a cost-of-living allowance when determining eligibility for a SSI related category of Medical Assistance (MA), including the Freedom to Work program.

The Claimant's grievance centers on dissatisfaction with the Department's current policy. The Claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

Based on the evidence and testimony available during the hearing, the Department has established that it properly determined that the Claimant is not eligible for Medical Assistance (MA) under the Freedom to Work category because she exceeds the unearned income limit.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined that the Department properly considered the cost-of-living allowance in the Claimant's Retirement, Survivors, and Disability Insurance (RSDI) benefits towards her eligibility for Medical Assistance (MA) under the Freedom to Work category.

The Department's Medical Assistance (MA) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

/s/  
Kevin Scully  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: March 9, 2012

Date Mailed: March 12, 2012

**NOTICE:** Administrative Hearings 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. Administrative Hearings will not order a rehearing or

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reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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.

KS/tb

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