

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED] 8503

Reg. No: 201252359
Issue No: 2026
Case No: [REDACTED]
Hearing Date: August 9, 2012
Genesee #02 County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on August 9, 2012. Claimant and her authorized hearing representative appeared and testified.

ISSUE

Did the Department of Human Services determine the proper level of Medical Assistance (MA) for Claimant on May 2, 2012?

FINDINGS OF FACT

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

1. Claimant has been receiving [REDACTED] disability benefits since 2003.
2. Claimant has been receiving Medicare benefits since 2005.
3. On December 31, 2009, Claimant's employment at [REDACTED] ended.
4. Claimant began employment at [REDACTED] on January 6, 2012.
5. On April 27, 2012, Claimant submitted an application for Medicaid Medical Assistance (MA) benefits through the Michigan Department of Human Services.
6. On May 2, 2012, Claimant was sent a Notice of Case Action (DHS-1605) which stated he was approved for [REDACTED] and Medical Assistance (MA) as a [REDACTED] deductible case.

7. On May 8, 2012, Claimant submitted a request for hearing.

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) and the Program Reference Manual (PRM).

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 105 MEDICAID OVERVIEW DEPARTMENT POLICY MA Only

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

CHOICE OF CATEGORY

Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income.

Note: Persons may receive both Medicare Savings Program benefits (BEM 165) and coverage under another MA category; see **Medicare Savings Program** in this item.

However, clients are not expected to know such things as:

- Ineligibility for a FIP grant does not mean MA coverage must end.
- The LIF category is usually the most beneficial category for families because families who become ineligible for LIF may qualify for TMA or Special N/Support.
- The Healthy Kids categories are usually the next most beneficial categories for persons under age 19 and pregnant women.
- The most beneficial category may change when a client's circumstances change.

Therefore, you must consider all the MA category options in order for the client's right of choice to be meaningful.

**BEM 174 FREEDOM TO WORK (FTW)
DEPARTMENT POLICY
MA Only**

Do **not** consider Freedom to Work (FTW) eligibility if the month being tested is before January 2004.

This is an SSI-related Group 1 MA category.

Consider client's eligibility for all other MA categories before considering eligibility for Freedom to Work (FTW).

FTW is available to a client with disabilities age 16 through 64 who has earned income.

Eligibility begins the first day of the calendar month in which all eligibility criteria are met. All eligibility factors must be met in the calendar month being tested.

Note: SSI recipients whose SSI eligibility has ended due to financial factors are among those who should be considered for this program.

NON-FINANCIAL ELIGIBILITY FACTORS

1. The client must be MA eligible before eligibility for FTW can be considered.
2. The client does not access MA through a deductible.
3. The client must be disabled according to the disability standards of the Social Security Administration, except employment, earnings, and substantial gainful activity (SGA) cannot be considered in the disability determination.
4. The client must be employed.

Note: A client may have temporary breaks in employment up to 24 months if the break is the result of an involuntary layoff or is determined to be medically necessary and retain FTW eligibility. 5. The MA eligibility factors in the following items must be met:

- BEM 220, Residence.
- BEM 221, Identity.
- BEM 223, Social Security Numbers.
- BEM 225, Citizenship/Alien Status.
- BEM 257, Third Party Resource Liability.
- BEM 265, Institutional Status.
- BEM 270, Pursuit of Benefits.

In this case Claimant's authorized hearing representative argued that Claimant still had FTW eligibility because he had not exceeded the limit of a 24 month break in employment. Claimant's authorized hearing representative also argued that FTW Medical Assistance (MA) coverage was most beneficial to Claimant because he would have no spend down expense for his coverage.

The Department representative only raised one item to support their determination. The Department cited the BEM 174 requirement to consider eligibility for all other MA categories before considering eligibility for FTW MA.

Evidence in this record does not convince this Administrative Law Judge that Claimant should not have a choice of Medical Assistance (MA) coverage under [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services DID NOT determine the proper level of Medical Assistance (MA) for Claimant on May 2, 2012.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It I further ORDERED that Claimant's May 27, 2012 Medical Assistance (MA) application be reinstated and reprocessed to determine if he is eligible for coverage under Bridges Eligibility Manual 174 Freedom to Work.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 21, 2012

Date Mailed: August 22, 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 reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

GFH/tb

cc:

