

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20131815
Issue No: 2021
Case No: [REDACTED]
Hearing Date: January 15, 2013
Wayne County DHS #18

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 telephone hearing was held on January 15, 2013. The claimant personally appeared and provided testimony. The claimant's authorized representative (AR), [REDACTED] and her husband [REDACTED] also appeared and provided testimony and argument.

ISSUE

Whether the department properly terminated the claimant's Medical Assistance (MA) benefits under the freedom to work (FTW) program and whether the department properly denied the claimant's application for MA benefits under the Medicare Savings Program?

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 was a recipient of MA benefits under FTW.
2. In January 2012, those benefits were terminated.
3. In September 2012, the claimant submitted an application for MA benefits through the Medicare Savings Program.
4. On September 19, 2012, the department sent the claimant a notice of case action (DHS 1605) stating that effective September 1, 2012; his application for MA benefits under the Medicare Savings Program was denied due to exceeding the allowable asset limit. (Department Exhibit A).

5. On September 25, 2012, the claimant's AR filed a hearing request protesting the closure of his FTW benefits and the denial of his application for the Medicare Savings Program.

CONCLUSIONS OF LAW

As a preliminary matter, the first issue to be decided was the issue of the FTW MA benefits. Prior to the closure of the hearing record, the department representative testified that it appeared that the claimant's FTW MA benefits had been closed in error. The department representative testified that the department was willing to reassess the claimant's eligibility for FTW MA benefits retroactive back to January 2012. The claimant's AR agreed that this was an appropriate course of action to take regarding the claimant's FTW benefits.

MCL 24.278(2) provides a disposition may be made of a contested case by stipulation or agreed settlement. In the case at hand, the department and the claimant have agreed that the claimant's eligibility for FTW MA benefits will be reassessed retroactive to January 2012. Therefore, the parties agree as to the course of action to be taken regarding the FTW MA benefits, this portion of the hearing request may be disposed of by stipulation.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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).

In relation to a claimant's eligibility for Medicare Savings Program (MSP) benefits, the claimant must meet an asset eligibility test. BEM 165. The asset test is contained in BEM 400, at page 5. Policy states:

**SSI-Related MA
Asset Limit
SSI-Related MA Only**

For Freedom to Work (BEM 174) the asset limit is \$75,000. IRS recognized retirement accounts (including IRAs and 401(k)s) may be of unlimited value.

For Medicare Savings Programs (BEM 165) the asset limit is:

- \$6,680 for an asset group of one. \$6,940 effective January 1, 2012.
- \$10,020 for an asset group of two. \$10,410 effective January 1, 2012.
- For QDWI (BEM 169) the asset limit is:\$4000 for an asset group of one.
- \$6000 for an asset group of two. BEM 400, page 5.

In this case, the claimant's AR argued that because the claimant is eligible for FTW MA benefits, the asset limit should be \$ [REDACTED]. However, the above cited policy clearly differentiates between FTW and MSP benefits. Additionally, each type of MA benefits has a section of policy designated for its implementation. This Administrative Law Judge finds that the policy is clear in prescribing to different asset amounts for each program. Accordingly, the department properly used the asset amount of \$ [REDACTED] to determine the claimant's eligibility for MSP benefits and determined that the claimant was over the allowable asset limit.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly closed the claimant's FTW MA case.

Accordingly, the department's actions pertaining to the claimant's FTW MA benefits are **REVERSED**.

It is HEREBY ORDERED that the department shall initiate a redetermination of the claimant's eligibility for FTW MA benefits retroactive to January 2012. If the claimant is found to be otherwise eligible, the department shall issue benefits in accordance with policy and, if applicable, issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

However, this Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department properly denied the claimant's application for MSP MA benefits due to excess assets.

Accordingly, the department's actions pertaining to the claimant's application for MSP MA benefits are **AFFIRMED**. It is SO ORDERED.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 6, 2013

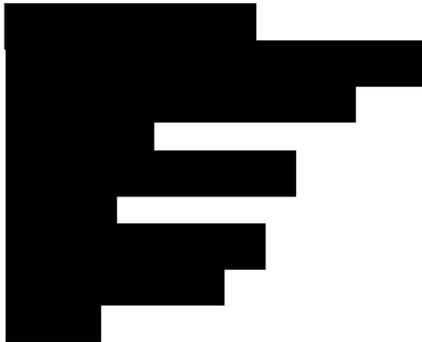
Date Mailed: February 7, 2013

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.

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.

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