

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-24909
Issue No.: 2018
Case No.: [REDACTED]
Hearing Date: May 20, 2013
County: Wayne (82-35)

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 May 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, [REDACTED]

[REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly determine Claimant's Medical Assistance (MA) eligibility effective November 1, 2012, ongoing?

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 is disabled and an ongoing recipient of MA benefits.
2. Claimant was a Supplemental Security Income (SSI) recipient; however, he began to obtain Retirement, Survivors, and Disability Insurance (RSDI) payments due to financial factors. See Exhibit A.
3. On September 11, 2012, the Department sent Claimant a redetermination. Exhibit 1.

4. On September 28, 2012, the Department received Claimant's completed redetermination. Exhibit 1.
5. On October 8, 2012, the Department sent Claimant a Notice of Case Action advising him that, effective November 1, 2012, he would receive MA coverage with a monthly \$688 deductible. Exhibit 1.
6. On an unspecified date, the Department received updated pay stubs from Claimant and his monthly deductible was increased to \$880 effective November 1, 2012, ongoing. Exhibits 1 and 3.
7. On December 3, 2012, Claimant's AHR filed a request for hearing disputing Claimant's MA eligibility. Exhibit 1.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA

program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

As a preliminary matter, on June 26, 2012, the Department sent Claimant a Notice of Case Action advising him that, effective July 1, 2012, he would receive MA coverage with a monthly \$777 deductible. Exhibit 1. Claimant's AHR testified that Claimant should have not been placed on Group 2 Spend-Down (G2S) effective July 1, 2012, and instead, Claimant was eligible for Freedom to Work (FTW) in July of 2012. On December 3, 2012, Claimant's AHR filed a request for hearing disputing Claimant's MA eligibility. Claimant did not request a hearing within 90 calendar days of the date of the written notice of case action (June 26, 2012). BAM 600 (October 2012), p. 4. Thus, this decision will only address Claimant's MA eligibility from November 1, 2012, ongoing.

The Freedom to Work (FTW) is an SSI-related Group 1 MA category for client's with disabilities ages 16 through 64 who have an earned income. BEM 174 (October 2012), p. 1. BEM 174 outlines the proper procedures for determining FTW eligibility. BEM 174, pp. 1-3. BEM 174 states the following non-financial eligibility factors for FTW: (i) a client must be MA eligible before eligibility for FTW can be considered; (ii) the client does not access MA through a deductible; (iii) 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; (iv) the client must be employed; and (v) the MA eligibility factors are met in multiple BEM policies. BEM 174, p. 1; see Michigan Compiled Laws 400.106a. SSI recipients whose SSI eligibility has ended due to financial factors are still considered under the FTW MA program. BEM 174, p. 1.

BEM 174 also states the financial eligibility factors for FTW. A client's countable assets cannot exceed the asset limit for FTW in BEM 400. BEM 174, p. 2. Also, BEM 174 states to be income eligible for FTW, a client's net unearned income cannot exceed 100 percent of the Federal Poverty Level (FPL). BEM 174, p. 2; see RFT 246. Moreover, a client with net earned income exceeding 250 percent of the FPL is required to pay a monthly premium based on earned income in order to keep MA coverage. BEM 174, p. 2. Premiums will be billed and collected by the Department of Community Health (DCH) through FTW. BEM 174, p. 2.

Claimant is disabled and an ongoing recipient of MA benefits. On September 11, 2012, the Department sent Claimant a redetermination. Exhibit 1. On September 28, 2012, the Department received Claimant's completed redetermination. Exhibit 1. On October 8, 2012, the Department sent Claimant a Notice of Case Action advising him that,

effective November 1, 2012, he would receive MA coverage with a monthly \$688 deductible. Exhibit 1. However, at the hearing, it was discovered that the Department increased Claimant's deductible due to updated pay stubs. Claimant's deductible increased from \$688 to \$880 effective November 1, 2012, ongoing. See Exhibit 3. Moreover, Claimant's AHR requested a hearing stating that Claimant was eligible for FTW and not G2S. Exhibit A.

In this case, the Department testified that Claimant was ineligible for FTW for the following reasons: (i) he received RSDI payments; (ii) Claimant was eligible for MA before he was eligible for FTW; and (iii) Claimant accessed MA through a deductible. BEM 174, p 1. Additionally, the Department presented as evidence an SOLQ inquiry screen showing Claimant receiving RSDI payments. See Exhibits 1 and 2.

Claimant's AHR testified that Claimant is eligible for FTW for the following reasons: (i) Claimant's unearned income did not exceed 100 percent of the FPL; (ii) Claimant received SSI prior to the increase in his earned income; (iii) Claimant's earned income per month is below the 250% FPL; and (iv) Claimant's assets fell below the MA threshold. See Exhibit A.

Additionally, the Department testified that Claimant last received FTW coverage in March of 2012. The Department did not provide a full Eligibility Summary at the hearing showing Claimant's FTW coverage history.

Based on the foregoing information and evidence, the Department improperly determined Claimant's MA eligibility effective November 1, 2012, ongoing, in accordance with Department policy. It was not disputed that Claimant is disabled and that he once received SSI before his payments converted to RSDI due to financial factors. The Department testified that Claimant last received FTW coverage in March of 2012. The Department should not have discontinued Claimant's FTW coverage just because he began receiving RSDI payments or even if his net earned income exceeded 250% of the FPL. BEM 174, pp. 1-2. Claimant was found to be disabled by the Social Security Administration. Thus, Claimant is eligible for continuing FTW coverage even if his payments changed to RSDI. See BEM 174 and MCL 400.106a. If the Department discovered that Claimant's net earned income exceeded 250 percent of the FPL, Claimant is required to pay a monthly premium based on earned income to keep MA coverage. BEM 174, p. 2. Thus, the Department improperly determined Claimant's MA eligibility and the Department has to redetermine Claimant's FTW eligibility for November 1, 2012, ongoing. See BEM 174 and MCL 400.106a.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department improperly determined Claimant's MA eligibility effective November 1, 2012, ongoing.

Accordingly, the Department's MA decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Claimant's FTW eligibility effective November 1, 2012, ongoing, in accordance with Department policy.
2. Issue supplements to Claimant for any MA benefits he was eligible to receive but did not from November 1, 2012, ongoing; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 30, 2013

Date Mailed: June 3, 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

2013-24909/EJF

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

EJF/pf

cc:

