

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

**IN THE MATTER OF:**



Reg. No.: 201421636  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: February 19, 2014  
County: Gladwin

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 19, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Eligibility Specialist).

**ISSUE**

Did the Department properly determine Claimant's eligibility for the Medical Assistance (MA) Freedom to Work (FTW) program?

**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 applied for State Disability Assistance (SDA) and MA on April 8, 2013.
2. On August 19, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which approved Claimant's eligibility for MA-FTW effective January 1, 2013.
3. On November 18, 2013, Claimant submitted an online application for assistance requesting Food Assistance Program (FAP) benefits. On the assistance application, Claimant indicated that, in addition to her homestead, she had 2 additional properties and was collecting rental income from these properties.

4. On December 12, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which, among other things, closed her MA-FTW effective January 1, 2014 because she “is not under 21, pregnant, or a caretaker or a minor child in her home” and “You are not over 65 (aged), blind, or disabled.”
5. Claimant requested a hearing on January 3, 2014 to dispute the Department’s decision regarding her MA-FTW case.

### **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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The FTW program is an SSI-related Group 1 MA category that 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. SSI recipients whose SSI eligibility has ended due to financial factors are among those who should be considered for this program. BEM 174, p 1 (7-1-2013).

The following are the non-financial eligibility factors required for the FTW program:

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.<sup>1</sup>
4. The client must be employed.<sup>2</sup>

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<sup>1</sup> FTW clients requiring a disability determination from MRT must be clearly indicated on the medical packet by checking the other Program box and writing “Freedom to Work” or “FTW” in the blank on the DHS-49A Medical Social Eligibility Certification form. See BEM 174 p 1.

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. See BEM 174, pp 1-2.

Once a client is determined eligible for FTW, the countable assets cannot exceed the asset limit for FTW in BEM 400. BEM 174, p 2.

MA is available to a person who is aged (65 or older), blind or disabled. This is also referred to as "G2S", which is an SSI-related Group 2 MA category. BEM 166, p 1 (7-1-2013).

Assets must be considered in determining eligibility for SSI-related MA categories. BEM 400, p 1 (2-1-2014). Assets are defined as cash, any other personal property and real property. BEM 400. Real property is land and objects affixed to the land such as buildings, trees and fences. For Freedom to Work (BEM 174) the asset limit is **\$75,000**. (With emphasis added.) See BEM 400, p 6 (2-1-2014). For all other SSI-related MA categories (such as G2S), the asset limit is: **\$2,000** for an asset group of one and **\$3,000** for an asset group of two.

Here, the Department provided a lengthy and detailed chronology of events that ultimately resulted in the closure of Claimant's MA-FTW case. Despite the large number of documents in the record in this case, the Department's written and verbal presentation of the facts was disjointed and less than clear.<sup>3</sup> The following is a summary of what can be gleaned from the Department. Following Claimant's April 8, 2013 MA application for assistance (based on disability), the Department initially certified Claimant's MA-FTW case on August 19, 2013. However, the Department asserts that later (on November 25, 2013) Claimant applied for FAP and indicated that she had 2 parcels of real property in addition to her homestead. The Department then indicates that it obtained verification of the value of these 2 properties and, together, the values

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<sup>2</sup> 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. BEM 174, p 1.

<sup>3</sup> The Department representative who attended the hearing indicated that a remedy ticket (# [REDACTED]) was created to fix an issue pertaining to SDA, but the records appear to show that the error may also have affected Claimant's FTW case as well.

exceeded the allowable asset limits for FTW eligibility.<sup>4</sup> The Department contends that Claimant was not eligible for FTW because Claimant was terminated from employment on August 30, 2012 and again on September 7, 2012. The Department also submits that Claimant was incorrectly found eligible for FTW and that the proper MA category should be G2S. According to the Department, Claimant was not eligible for G2S due to excess assets. Claimant, on the other hand, contends that she worked two jobs and was forced to quit due to a disability. Claimant states that she needs MA to pay for her medical treatment. Claimant did not challenge the SEV values for her two rental properties, but stated that one of the properties was in a state of disrepair.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The records show that the Department clearly erred when it initially found that Claimant was eligible for MA-FTW when it processed Claimant's April 8, 2013 application. The Department included into evidence an email dated December 4, 2013 which, among other things, provides that Claimant was not eligible for G2S due to excess assets. The Department did not include evidence confirmation that Claimant was informed that the proper MA category for analysis was MA-G2S rather than FTW. However, Claimant did not challenge the Department's contention that she had 2 properties nor does she contest the SEV amounts for both properties.

This Administrative Law Judge finds that Claimant is not eligible for FTW due to being unemployed during the relevant time period. Claimant is also not eligible for G2S due to excess assets. The value of Claimant's two income generating rental properties ( [REDACTED] and [REDACTED] ) well exceeds the \$3,000.00 asset limit for G2S provided by BEM 400. Therefore, the Department correctly determined Claimant's MA eligibility after it discovered the error relating to Claimant's FTW eligibility determination.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Claimant's FTW eligibility and acted properly when it determined that Claimant had excess assets for purposes of MA-G2S eligibility.

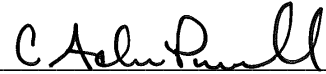
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<sup>4</sup> According to the Department, Claimant had two income producing rental properties; one had a State Equalized Value (SEV) of [REDACTED] and the other had an SEV of [REDACTED].

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.



**C. Adam Purnell**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: February 24, 2014

Date Mailed: February 25, 2014

**NOTICE OF APPEAL:** 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

201421636/CAP

If submitted by mail, the written request must be addressed as follows:

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

CAP/aca

cc:

