

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:
Issue No(s):
Case No.:
Hearing Date:
County:

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 April 3, 2014, from Grand Rapids, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearings Representative and sister [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department properly change Claimant's MA benefits from Freedom to Work Medicaid to Ad-Care Medicaid?

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 was a recipient of Freedom to Work Medicaid.
2. Claimant's eligibility was reviewed in December 2013.
3. On January 22, 2014, Claimant was approved for Ad-Care Medicaid.
4. On January 28, 2014 Claimant requested hearing.
5. On February 5, 2014, a ticket was requested to determine if Claimant is still eligible for Freedom to Work Medicaid. That ticket remains pending.

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.

DEPARTMENT POLICY outlines how to determine eligibility for Medicaid-Freedom to Work--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.

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.

Note: 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.

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.

FINANCIAL ELIGIBILITY FACTORS

Groups

Clients' eligible under the FTW category is a fiscal and asset group of one.

Assets

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

Refer to BEM 400 for jointly owned assets.

Divestment

Do not apply policy in BEM 405.

Income Eligibility

Income eligibility exists when the client's net **unearned** income does not exceed 100 percent of the Federal Poverty Level (FPL); see RFT 246. If the client's net earned income is above 250 percent of the FPL, refer the client to FTW; see **FTW Referrals** in this item.

Determine countable earned and unearned income according to SSI-related MA policies in BEM 500, 530, 540 (for children) or 541 (for adults). Unemployment compensation benefits are not countable income for FTW. BEM 174

Additionally, the Department agreed to determine if Claimant remains eligible for Freedom to Work Medicaid.

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

- Did not act in accordance with Department policy when it failed to determine if Claimant is still eligible for Freedom to Work Medicaid..

DECISION AND ORDER

Accordingly, the Department's decision is

- REVERSED.**

- THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Determine if Claimant remains eligible for Freedom to Work Medicaid.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 18, 2014

Date Mailed: April 21, 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

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

ATM/nr

cc:

