

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-014939
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: February 05, 2015
County: Kent-District 1

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 05, 2015, from Lansing , Michigan. Participants on behalf of Claimant included his authorized hearings representatives [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED] as hearings facilitators.

ISSUE

Did the Department properly close the Claimant's Medical Assistance (MA) under the Freedom to Work (FTW) category?

FINDINGS OF FACT

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

1. The Claimant is on ongoing Medical Assistance (MA) recipient.
2. The Claimant is disabled.
3. The Claimant was approved for Medical Assistance (MA) under the Freedom to Work (FTW) category until October 31, 2014.
4. On September 10, 2014, the Department initiated a redetermination of the Claimant's eligibility for continuing benefits.
5. The Claimant receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED]
6. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]

7. On October 7, 2014, the Department notified the Claimant that he was no longer eligible to participate in the Freedom to Work (FTW) program and that he would receive Medical Assistance (MA) under another category with a \$ [REDACTED] monthly deductible.
8. On October 17, 2014, the Department received the Claimant's request for a hearing protesting the closure of his Freedom to Work (FTW) benefits.

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 Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Freedom to Work (FTW) is a Supplemental Security Income (SSI) related category of Medical Assistance (MA) benefits that is available to a clients with disabilities age 16 through 64 who have earned income. Supplemental Security Income (SSI) recipients whose SSI eligibility has ended due to financial factors are among those who should be considered for this program. Department of Human Services Bridges Eligibility Manual (BEM) 174 (July 1, 2014), pp 1-2.

All eligibility factors must be met in the month being tested including the following:

- 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.
- 5) The MA eligibility factors in the following items must be met:
 - a) BEM 220, Residence.
 - b) BEM 221, Identity.
 - c) BEM 223, Social Security Numbers.

- d) BEM 225, Citizenship/Alien Status.
- e) BEM 257, Third Party Resource Liability.
- f) BEM 265, Institutional Status.
- g) BEM 270, Pursuit of Benefits. BEM 174, pp 1-2.

Income eligibility exists when the client's net unearned income does not exceed 100 percent of the Federal Poverty Level (FPL). A client with net earned income exceeding 250 percent of the FPL is required to pay a monthly premium based on earned income to keep MA coverage. BEM 174, p 2.

The Claimant was an ongoing Medical Assistance (MA) under the Freedom to Work (FTW) category until October 31, 2014. After redetermining his eligibility to receive continuing benefits, the Department determined that the Claimant was ineligible for the Freedom to Work (FTW) program as a result of his earned income. The Department reached this conclusion because his total countable monthly income exceeds the income limits to participate in the AD-Care category of Medical Assistance (MA) and he is eligible to receive Medical Assistance (MA) under another category with a deductible.

This Administrative Law Judge finds that the Claimant was eligible for Medical Assistance (MA) in the Freedom to Work (FTW) program on October 1, 2014, and was not accessing Medical Assistance (MA) through a deductible. The Claimant is disabled. The Claimant is employed. The Claimant is a Michigan resident and an U.S. citizen. The Department does not dispute that the Claimant has verified his identity and that he does not receive medical benefits from another source.

This Administrative Law Judge finds that the Claimant's unearned income does not exceed 100 percent of the federal poverty level and his earned income does not exceed 250 percent of the federal poverty level. The Department does not dispute that the Claimant does not possess excess countable assets to receive Medical Assistance (MA).

No evidence was presented during the hearing that the Claimant's disability benefits from the Social Security Administration (SSA) were interrupted requiring a change of category of Medical Assistance (MA).

This Administrative Law Judge finds that evidence of an increase in earned income that would make the Claimant ineligible for Medical Assistance (MA) under the AD-Care program does not support a finding that an ongoing recipient of Freedom to Work (FTW) benefits does not meet the non-financial criteria for the Freedom to Work (FTW) program.


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 closed the Claimant's Freedom to Work (FTW) benefits and places him in a less beneficial category of Medical Assistance (MA).

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. Initiate a determination of the Claimant's eligibility for the Freedom to Work (FTW) program as of November 1, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Acting DHS Director
Department of Human Services

Date Signed: **2/23/2015**

Date Mailed: **2/23/2015**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

