

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2014-11310
Issue No(s): 2001
Case No.: ██████████
Hearing Date: January 23, 2014
County: Oakland County DHS 03

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ES.

ISSUE

Did the Department properly close the Claimant Medical Assistance due to income exceeding the income limit?

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 Department issued a Notice of Case Action on October 21, 2013 closing the Claimant's Medical Assistance due to excess income effective December 1, 2013. Exhibit 3
2. The claimant had been previously eligible for Medical Assistance under the Freedom to Work program as the Claimant is deemed disabled and is a recipient of RSDI and was previously qualified under the Freedom to Worker Program.
3. The Claimant returned to work in July 2013 starting a new job and provided the Department a note from her doctor that she lost her last job in October 2011 due to health conditions.

4. The Claimant received RSDI [REDACTED] and also has earned income. The Claimant imposed a deductible of [REDACTED] and did not consider whether the Claimant was eligible for the Freedom to Work Program.
5. The Claimant requested a hearing on October 26, 2013 protesting the Department's closure of Claimant's Medical 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.

Additionally, the Claimant in this case disputed the closure of her Medical Assistance which evidently was reinstated after her request for hearing. The Department determined that the Claimant was eligible for medical assistance with a deductible. The Claimant was previously eligible for the Freedom to Work Program and had provided proofs required by the Department. The Department conceded that it did not consider the Freedom to Work Program.

The Claimant was requested to provide a doctor's note documenting that she lost her job due to a medical necessity and provided the Department the requested Doctor's note sending two faxes and dropped off the doctor's note and received no response from the Department. The doctor's note was dropped off and faxed on November 5 and 6, 2013. The Claimant was also advised by a Department Manager that she would be eligible for Freedom to Work Program. The Claimant's credible testimony did establish that she provided all the information required to have the Department determine eligibility for Freedom to Work and the Department at no time did so. The Department is required to determine the program that is the most advantageous to the Claimant and completely failed to consider eligibility under Freedom to Work. Based upon the proofs provided by the Claimant and the hearing which were undisputed by the department, it is determined that the Department did not consider policy in BEM 174 and instead imposed a spend down. Eligibility for Freedom to Work is as follows:

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 174 2 of 4 FREEDOM TO WORK (FTW)** BPB 2013-011 7-1-2013
BRIDGES ELIGIBILITY MANUAL STATE OF MICHIGAN DEPARTMENT OF HUMAN SERVICES

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 count-able income for FTW.

PREMIUM PAYMENTS

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. Premiums will be billed and collected by the Department of Community Health (DCH) through FTW. BEM 174, pp. 1-3 (7/1/2013)

Based upon the evidence presented at the hearing it is determined that the Claimant has presented sufficient information that the Department should have considered Claimant's eligibility under the Freedom to Work Program and erred when it failed to do so.

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 when it imposed a medical deductible on the Claimant.
- ☒ failed to satisfy its burden of showing that it acted in accordance with Department policy when it imposed a medical deductible without considering Claimant's eligibility for the Freedom to Worker Program.

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. The Department shall reinstate, if required, the Claimant's Medical Assistance case and shall re process the case to determine the Claimant's eligibility under the Freedom to Work Program.
2. The Department shall provide written notice to the Claimant of its determination of Claimant's eligibility for the Freedom to Work program.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 13, 2014

Date Mailed: February 13, 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

LMF/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]