

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

**IN THE MATTER OF:**



Reg. No.: 15-004033  
Issue No.: 2001  
Case No.: [REDACTED]  
Hearing Date: May 07, 2015  
County: Delta

**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, telephone hearing was held on May 07, 2015, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's mother and authorized hearings representative [REDACTED]. Participants on behalf of the Department included [REDACTED], Family Independence Worker, and [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department of Health and Human Services (Department) did the Department properly close the Claimant's Medical Assistance (MA) benefits under the 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. The Claimant was an ongoing Medical Assistance (MA) recipient under the Freedom To Work (FTW) program.
2. The Claimant receives social security benefits in the gross monthly amount of \$ [REDACTED] which includes benefits for himself and through his father.
3. The Department notified the Claimant that it would close his FTW benefits effective March 1, 2015.
4. On March 13, 2015, the Department received the Claimant's request for a hearing protesting the closure of MA benefits under the FTW category.

## **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

Income eligibility exists for the Freedom To Work (FTW) program when the client's net unearned income does not exceed 100 percent of the Federal Poverty Level (FPL). Department of Human Services Bridges Eligibility Manual (BEM) 174 (July 1, 2013), p 2.

The Claimant was an ongoing FTW recipient when the Department reviewed his eligibility to receive continuing benefits. The Claimant is receiving unearned income from Social Security in the gross monthly amount of \$ [REDACTED] which includes a monthly benefit for himself and a second benefit received through his father's account. Since the Claimant's unearned income exceeds 100% of the Federal Poverty Level, he is not eligible to participate in the FTW program.


The Claimant's representative testified that closure of his FTW benefits will be a severe hardship on his lifestyle because of the programming he will no longer be able to participate in.

This Administrative Law Judge is unable to consider those factors. Administrative Law Judges have no authority to make exceptions to the Department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

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 closed the Claimant's Medical Assistance (MA) benefits under the Freedom To Work (FTW) program because his unearned income exceeds the limit set in BEM 174.

**DECISION AND ORDER**

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

  
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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/19/2015**

Date Mailed: **5/19/2015**

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 48909-8139

cc:

