

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 20136798  
Issue No.: 2021  
Case No.: [REDACTED]  
Hearing Date: [REDACTED]  
County DHS: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Kevin Scully

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED] from [REDACTED]. Participants on behalf of Claimant included [REDACTED] as authorized hearings representative. Participants on behalf of Department of Human Services (Department) included [REDACTED].

**ISSUE**

Whether the Department of Human Services (Department) properly determined the Claimant's countable assets?

**FINDINGS OF FACT**

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

1. The Claimant applied for Medical Assistance (MA) and Medicare Cost Share benefits on [REDACTED].
2. On [REDACTED] the Department notified the Claimant that her application for Medical Assistance (MA) and Medicare Cost Share benefits had been denied because her countable assets exceed the allowable limits for each of these programs.
3. The Department received the Claimant's request for a hearing on [REDACTED] [REDACTED] protesting the denial of her Medical Assistance (MA) and Medicare Cost Share benefits.

## CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Department must consider assets when determining eligibility for Medical Assistance (MA) and Medicare Cost Share benefits. Assets mean cash, any other personal property and real property. Countable assets cannot exceed the applicable asset limit. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2013), pp 1-7.

The value of the types of assets described above is the amount of the:

- Money/currency.
- Uncashed check, draft or warrant.
- Money in the account or on deposit.
- Money held by others.
- Money held by nursing facilities for residents.
- Money in the Direct Express account. BEM 400.

Do not count funds treated as income by a program as an asset for the same month for the same program. BEM 400.

The Claimant applied for Medical Assistance (MA) and Medicare Cost Share benefits on [REDACTED]. On [REDACTED], the Department notified the Claimant that her application for Medical Assistance (MA) and Medicare Cost Share benefits had been denied because her countable assets exceed the allowable limits for each of these programs.

The Department determined the Claimant's countable assets based on verification documents submitted by the Claimant along with her application for assistance. The Department determined that the Claimant had a checking account with a countable value of \$ [REDACTED], an annuity with a countable value of \$ [REDACTED], and a life insurance policy with a countable value of \$ [REDACTED]. The Department determined that the Claimant has total countable assets of \$ [REDACTED].

The asset limit to receive Medical Assistance (MA) benefits is \$2,000. BEM 400.

The asset limit to receive Medicare Cost Share benefits is \$6,940. BEM 400.

The Claimant's representative argued that the Department improperly determined the countable value of the Claimant's checking account. The Claimant's representative argued that the Claimant's checking account statement indicates that one deposit for \$ [REDACTED] was made into the account in [REDACTED], which represents the Claimant's social security benefit payment.

The Department considers all available assets to be countable when determining eligibility to receive benefits unless the policy includes an exclusion for that asset. In this case, the Department's policy includes an exclusion for available assets that are considered countable income in the same month. If the Claimant's social security payment is excluded from countable assets, her other assets are high enough that she remains ineligible for Medical Assistance (MA), but may be eligible for Medicare Cost Share benefits if she meets all other criteria for the program.

Based on the evidence and testimony available during the hearing, the Department has failed to establish that the Claimant's social security benefits for [REDACTED] is not countable income that should be excluded as a countable asset.

The Department established that it properly denied the Claimant's application for Medical Assistance (MA) benefits, but failed to establish that it properly denied Medicare Cost Share benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly denied the Claimant's application for Medical Assistance (MA) benefits based on excess assets.

The Department's Medical Assistance (MA) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly denied the Claimant's application for Medicare Cost Share benefits based on excess assets.

The Department's Medicare Cost Share eligibility determination is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Allow the Claimant a ten day period to clarify whether the deposit to her checking account on [REDACTED] should be excluded from countable assets as current income.
2. Initiate a determination of the Claimant's eligibility for Medicare Cost Share benefits as of [REDACTED].

3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

  /s/

Kevin

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Scully  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 03/22/2013

Date Mailed: 03/22/2013

**NOTICE:** 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing MAY be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

20136798/KS

Request must be submitted through the local DHS office or directly to MAHS by mail at:

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

KS/kl

cc:

