

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: [REDACTED]
Issue No.: 2006, 2021
Case No.: [REDACTED]
Hearing Date: June 27, 2013
County: Midland

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 June 27, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant had excess countable assets to receive Medical Assistance (MA) benefits for December of 2012.

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 submitted an application for Medical Assistance (MA) on December 28, 2012.
2. On January 2, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of January 14, 2013.
3. The Claimant submitted a bank account statement with a statement period of November 1, 2012, to November 30, 2012, and indicated a balance of [REDACTED].

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4. On December 24, 2012, the Claimant signed prepaid funeral agreement with a cost of ██████████ to be paid from the Claimant's bank account.
 5. On January 18, 2013, the Department denied Medical Assistance (MA) for December of 2012, because the Claimant's countable assets exceeded the amount allowed by policy.
 6. The Department received the Claimant's request for a hearing on January 25, 2013, protesting the denial of Medical Assistance (MA) benefits for December of 2012.

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).

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. 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 (July 1, 2013), pp 1-7.

Cash is a countable asset that includes:

- Money/currency.
- Uncashed checks, drafts and warrants.
- Checking and draft accounts.
- Savings and share accounts.
- Money market accounts.
- LTC patient trust fund and all other money held by the facility for the patient.
- Money held by others.
- Time deposits. BEM 400, p 11.

██████████

The value of a cash asset 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, p 12.

In this case, the Claimant submitted an application for Medical Assistance (MA) on December 28, 2012. On January 2, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) with a due date of January 14, 2013. The Claimant submitted a bank account statement that indicated a balance of ██████████. On December 24, 2012, the Claimant signed a prepaid funeral agreement with accost of ██████████ to be paid from his bank account. On January 18, 2013, the Department notified the Claimant that Medical Assistance (MA) would be denied for December of 2012, due to excess assets.

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

The Claimant argued that his assets had been spend down in December of 2012, and that he met the asset test for Medical Assistance (MA) for that month. The Claimant testified that the funds spend out of his bank account of December 24, 2012, on the prepaid funeral contract put his countable assets under the policy limit. The Claimant testified that the check written on December 24, 2012, was cashed on January 7, 2013.

The Claimant has a duty to provide evidence to establish a right to receive benefits. In this case, on January 18, 2013, the Department may have been aware of the Claimant's intent to apply the funds in his bank account towards a prepaid funeral contract, but had not received verification that these funds were no longer countable. Furthermore, Department policy includes the value of uncashed checks as countable assets.

Therefore, this Administrative Law Judge finds that the uncashed check drawn on the Claimant's bank account was a countable asset for December 2012, and the Department was acting in accordance with policy when it denied Medical Assistance (MA) for December of 2012, due to excess assets.

[REDACTED]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined the Claimant's countable assets for December of 2012.

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

/s/ _____

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

Date Signed: 07/09/2013

Date Mailed: 07/10/2013

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.

[REDACTED]

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/sw

cc:

[REDACTED]