

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006106
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: June 04, 2015
County: Allegan

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 June 04, 2015, from Lansing, Michigan. Participants on behalf of Claimant included her son and authorized hearing representative [REDACTED]. Participants on behalf of the Department included [REDACTED] as hearing facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's request for Long Term Care (LTC) benefits?

FINDINGS OF FACT

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

1. On December 15, 2014, the Claimant submitted a Long Term Care Medical Assistance (MA) application.
2. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED].
3. The Claimant's Retirement, Survivors, and Disability Insurance (RSDI) checks were not cashed for three months.
4. On January 20, 2015, the Department denied the Claimant's Long Term Care (LTC) application.
5. On April 15, 2015, the Department received the Claimant's request for a hearing protesting the denial of Long Term Care (LTC) benefits.

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.

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 (January 1, 2015), pp 1-7.

The asset limit for a RSDI recipient to receive MA benefits as a group of one is \$2,000. BEM 400.

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

On December 15, 2014, the Claimant applied for Long Term Care (LTC) Medical Assistance (MA) benefits. The Claimant receives monthly RSDI benefits in the gross monthly amount of \$ [REDACTED]. The Department requested verification of where the Claimant's RSDI benefits were going and discovered that three of her monthly benefit checks had not been cashed. These funds were available to the Claimant and her guardian despite the fact that they had not been cashed. During each month that the checks were received they were considered income, but the following month they became countable assets. Therefore, the Department denied the Claimant's application because her countable assets exceeded the \$ [REDACTED] limit.

The Claimant testified that he had only recently started managing his mother care and was not aware that the uncashed checks would make his mother ineligible for MA benefits.

The Claimant has the burden of establishing eligibility to receive benefits. In this case, the Claimant has not established that she meets the asset limits to receive MA benefits as outlined in BEM 400.

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 denied the Claimant's Longer Term Care (LTC) Medical Assistance (MA) application on the basis of her countable assets.

DECISION AND ORDER

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



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

Date Signed: **6/9/2015**

Date Mailed: **6/9/2015**

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:

