

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

IN THE MATTER OF:

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Reg. No.: 15-009195
Issue No.: 2001
Case No.: ██████████
Hearing Date: July 13, 2015
County: Wayne-District 17

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 13, 2015, from Detroit, Michigan. Participants on behalf of Claimant included her Legal Guardian/Authorized Hearing Representative, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Case Manager.

ISSUE

Did the Department properly close Claimant's Medical Assistance (MA) case on the basis that the value of her countable assets exceeded the 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. Claimant was an ongoing recipient of MA benefits under the G2S program.
2. In connection with a redetermination, Claimant's eligibility for MA was reviewed.
3. On May 18, 2015, the Department sent Claimant a Health Care Coverage Determination Notice informing her that effective June 1, 2015, she was no longer eligible for MA on the basis that the value of her countable assets is higher than allowed for the MA program. (Exhibit B)
4. On May 26, 2015, Claimant requested a hearing disputing the Department's actions.

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.

The Department contended that Claimant was ineligible for MA effective June 1, 2015, because her assets exceeded the limit for MA eligibility. Asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, disabled or blind. BEM 400 (April 2015), p. 1; BEM 105 (October 2014), p. 1. For SSI-related MA, the asset limit is \$2000 for an individual in long-term care. BEM 400, p. 7; BEM 211 (January 2015), p. 5.

At the hearing, the Department testified that because Claimant submitted a bank statement which reflected an ending balance on April 20, 2015, of \$4892.20 with the redetermination, it concluded that the value of Claimant's assets exceeded the applicable MA limit based on the value of her bank account. (Exhibit A). The Department presented a MA Asset budget showing liquid assets in the amount of \$4892.20. (Exhibit C).

Checking and savings accounts are assets. BEM 400, p. 14. The value of an account is the amount of cash in the account. BEM 400, p. 16. Department policy provides that asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 6.

In this case, Claimant's AHR testified that the value of Claimant's assets were lower than the \$2000 limit at least one day during the month tested because the assets were disposed of and used to pay Claimant's living costs. BEM 400, p. 6. Claimant's AHR stated that Claimant resides at [REDACTED] (HFV) and that she has a long term healthcare policy with [REDACTED] in which she is eligible to receive \$100 per day for long term health care costs. Claimant's AHR testified that [REDACTED] issues a check to Claimant monthly and that Claimant uses that money towards her monthly living costs at HFV. Claimant's AHR stated that in April 2015 he issued a check on Claimant's behalf to HFV

towards the costs of her care and that the check was cashed by HFV on April 21, 2015, bringing the balance of her checking account down to below \$2000. Claimant's AHR submitted additional bank statements in support of his testimony. (Exhibit 2). The Department confirmed that it did not send Claimant a verification checklist after receiving the bank statements with handwritten notes regarding the lowest balance being below the \$2000 limit. Furthermore, the Department stated that it relied on the ending balance referenced on the bank statement and did not consider the lowest balance in the month being tested as required by policy.

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 closed Claimant's MA case effective June 1, 2015, based on excess assets.

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. Reinstate Claimant's MA case effective June 1, 2015;
2. Provide Claimant with MA benefits from June 1, 2015, ongoing; and
3. Notify Claimant and her AHR in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/5/2015**

Date Mailed: **8/5/2015**

ZB / tlf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]