

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

**IN THE MATTER OF:**

██████████  
██  
██

Reg. No.: 15-002721  
Issue No.: 2001  
Case No.: ██████████  
Hearing Date: April 09, 2015  
County: MACOMB-DISTRICT 12  
(MT CLEMENS)

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 three way hearing was held on April 9, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████ ██████████ the Claimant's Authorized Hearing Representative. The Claimant did not appear. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

**ISSUE**

Did the Department properly deny the Claimant's application for Medical Assistance due to excess assets?

**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 October 28, 2014 the Department issued a Benefit Notice which denied the Claimant's G2C application for Medical Assistance filed in April 2011 due to exceeding the asset limit for Medical Assistance. The Department corrected the notice during the hearing to indicate the Claimant's asset limit was \$3,000, not \$2,000 as stated in the Benefit Notice. Exhibit A.
2. The Department determined based upon verification received by the Department that the Claimant's assets were \$7661.79 and exceeded the \$3,000 asset limit. Exhibit B.

3. The bank account information submitted by the AHR was attached to the MA application. The bank statement had a large blacked out area for a deposit on February 10, 2011. The Claimant had deposited a tax refund in an unknown amount. The Claimant's AHR did not know the amount.
4. Advomas never notified the Department about the tax refund.
5. The application was dated April 2011 with February and March retro application months. The Bank Statement submitted with the application covered the period January 19, 2011 through February 15, 2011. Exhibit C.
6. The Department used the January 19, 2011 statement to determine the Claimant had excess assets at the time of the April 2011 application.

### **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.

In this case, the Department denied the Claimant's April 2011 application for MA benefits on October 28, 2014 due to excess assets. Exhibit A The Department utilized bank account information provided with the application. Exhibit C. The bank information covered the period January 19, 2011 through February 15, 2011. One line of the bank statement was blacked out. No bank account information was requested for the application month, April 2011. The Department found based upon the statement that the Claimant was over the \$3,000 asset limit contained in BEM 400. BEM 400 (April 1, 2011) p. 4. At the hearing the Department asserted that it was not required to seek further verification of bank account information for the application month and did not do so. The Department concluded that the Claimant's ending bank balance shown for the January/February 2011 statement of \$7661.79 was sufficient to find the Claimant had excess assets. The Department was incorrect in its determination as a review of the information available was not for the month of April 2011 and the information provided was not clear or sufficient to make that determination. The Department could not count income as an assets and it did not appear that the Department made any

such review. At the hearing the balance of the account showed an average balance of \$1,167 which the AHR asserted satisfied the policy cited below that requires:

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 (April 1, 2011) p. 4

At **application**, do not authorize MA for future months if the person has excess assets on the processing date. BEM 400, p.4

The AHR's assertion is misplaced as the information on the statement is insufficient, and the tax refund information was not considered or made available.

Based upon the information provided with the application, the Department was obligated to verify further to determine the cash assets in the Claimant's checking account for April 2011 and did not do so. Nor is the information provided covering part of February 2011 adequate to determine whether the asset limit was exceeded.

Apparently the AHR requested MA for retro months of February and March 2011. In addition, the AHR testified that part of the balance shown on the bank account information included a tax refund amount deposited to the account. This information was not provided to the Department, nor did the AHR advise the Department of the amount of the tax refund, and did not present the amount of the tax refund at the hearing. In order to determine whether there were excess assets in any given month, the Department must know the amount of the tax refund as tax refunds in this situation are assets.

#### **G2U, G2C, RMA, SSI-Related MA Only**

Lump sums and accumulated benefits are income in the month received. See BEM 500, INCOME OVERVIEW, about countable income policy.

Exception: The following are assets:

Income tax refunds; see **Tax Refund & Tax Credit Exclusions** in this item. BEM 400 p. 15

Excluded Income under BEM 500 Series

- FIP, SDA, G2U, G2C, RMA, SSI-Related MA Only and FAP
- Use this exclusion only if the funds are **not** commingled with countable assets and are **not** in time deposits.

BEM 500, INCOME OVERVIEW, 501, INCOME FROM EMPLOYMENT, 502, INCOME FROM SELF-EMPLOYMENT, 503, INCOME UNEARNED and 504, INCOME FROM RENTAL/ROOM AND BOARD, identify certain sources of funds that are excluded as both income and assets. Time limits and other conditions applicable to the income exclusion also apply to the asset exclusion. BEM 400 (April 1, /2011) p. 13.

**BEM 500 provides:**

**MA and TMAP** Lump-sums and accumulated benefits are income in the month received. Income may be countable or excluded. Follow the appropriate policy in items BEM 501, 502, 503 and 504 based on the income type.

***Exception:*** The following are assets starting the month received:

- Income tax refunds. BEM 500, (January 1, 2011) p. 5.

Thus as can be seen based upon the policy provided above, the amount of the tax refund must be known in order to determine MA eligibility for February 2011 or whatever month it was received.

Based upon the above information provided with the application the Department was required to verify further bank account information as the information provided with the application was insufficient to make a determination regarding excess assets based upon the information it had available. When information regarding an eligibility factor is unclear, inconsistent or incomplete or contradictory, the Department must obtain verification and verification is usually required at application. BAM 130 (January 1, 2011) p. 1.

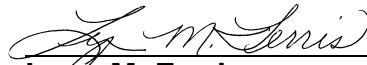
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the Claimant's April 1, 2011 MA application.

**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. The Department shall re-register the Claimant's April 1, 2011 MA application and retroactive MA application and redetermine Claimant's asset eligibility for the application month April 2011 and any retro months.
2. The Department shall seek additional appropriate verification of bank account information.
3. The Department shall advise the Claimant and Claimant's AHR in writing regarding its determination of eligibility.



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**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/6/2015**

Date Mailed: **5/6/2015**

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**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.

