

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

IN THE MATTER OF:



MAHS Reg. No.: 15-016484
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: October 21, 2015
County: DICKINSON

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the Claimant's Attorney'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, an in-person hearing was held on October 21, 2015, from Iron Mountain, Michigan. The Claimant was represented by her daughter, [REDACTED]; Attorney, [REDACTED] and Paralegal, [REDACTED]. The Department was represented by Assistant Attorney, Jonathan Ludwig; Assistance Payments Supervisor, [REDACTED] and Long Term Care Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly take action to deny the Claimant's application for Medical Assistance?

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 July 25, 2015, the Department received a DHS-4574, Medicaid Application Patient of Nursing Facility and a DHS-3243, Retro Medicaid Application for prior months of April 2015, May 2015 and June 2015.
2. On August 17, 2015, the nursing facility sent the Department confirmation that the Claimant paid for care for April, May, June and July 2015.
3. On August 25, 2015, a DHS-1606, Health Care Coverage Determination Notice was sent to the Claimant indicating that she was not eligible for MA because she was over assets because she prepaid for her long-term care.

4. On September 1, 2015, the Department received the Claimant's Attorney's written request for hearing protesting the denial of her application for MA.

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.

Additionally, Bridges Eligibility Manual (BEM) 400 (2012) p. 1, provides that assets must be considered in determining eligibility for MA. Assets are defined as cash, any other personal property and real property. To be eligible for MA, countable assets cannot exceed the applicable asset limit, which in this case is \$2000. An asset is countable if it meets the availability tests and is not excluded. Asset eligibility exists when the asset groups are less than, or equal to, the applicable asset limit at least one day during the month being tested. If at application, the person has excess assets on the processing date the Department is not to authorize MA for future months. p. 6.

BEM 405 (2015) p. 13, provides that an individual is not eligible for MA in a month they have prepaid for LTC. Because federal law directs that a resident in a nursing facility must have access to all monies held by the facility for the resident, the Department is to count money held by a nursing facility as cash. The Claimant's Attorney contended that the Claimant had not prepaid in full for April, May, June and July 2015. The Claimant's daughter testified that her mother did not have quite enough money to cover the entire bill so therefore she made up the difference. The Claimant's Attorney cites an email from the Department of Community Health Medicaid Eligibility Specialist. It reads as follows:

If the nursing home takes a payment from the individual applies the money to the bill (and gives a copy of the bill with the payment showing to the individual) then there is no money in an account that is countable for MA. If the amount paid is NOT enough to cover the full cost of the nursing home for that month, then MA can be opened so the balance is paid by the program. The facility needs to indicate on the claim that there was a partial voluntary payment by the resident when they bill. If the individual

puts money in an account with the nursing home then that money is a countable asset.

In this case, the Claimant's Attorney indicates that the Claimant did not prepay her nursing facility costs in full. Yet, the email from the nursing facility indicates that the Claimant did pay for April, May, June, July and August 2015. There is no documentary evidence to support the Claimant's daughter's assertion that she prepaid a portion of the nursing facility costs. That assertion is also refuted by the email from the nursing facility in evidence. Lastly, it is not contested that the months in question were prepaid. Even if the Claimant's daughter did pay a portion of those bills, there is no exception to BEM 405 p. 13, in policy that this Administrative Law Judge could find.

As such, this Administrative Law Judge concludes that the Department has met its burden of proving that it properly denied the Claimant's application for MA.

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 took action to deny the Claimant's application for MA.

DECISION AND ORDER

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



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **10/27/2015**

SEH/sw

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:

