

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

IN THE MATTER OF:

████████████████████	MAHS Reg. No.:	15-022242
████████████████████	Issue No.:	2001
████████████████████	████████████████████	████████████████████
████████████████████	Hearing Date:	February 10, 2016
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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 February 10, 2016, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's sister and authorized hearing representative ██████████ ██████████ (Long Term Care Specialist) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included ██████████ (Assistance Payments Supervisor).

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's request for retroactive Medical Assistance (MA)?

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 April 8, 2015, the Department received the Claimant's application for Medical Assistance (MA) with a request for retroactive benefits as of January 1, 2015.
2. The Claimant provided a bank statement for the period of February 26, 2015, through March 24, 2015, showing a starting balance of ██████████ and an ending balance of ██████████
3. On May 5, 2015, the Department notified the Claimant that Medical Assistance (MA) benefits had been approved effective March 1, 2015.
4. On November 16, 2015, the Department received the Claimant's request for a hearing protesting the denial of retroactive 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 (October 1, 2014), pp 1-7.

On April 8, 2015, the Department received the Claimant's application for MA benefits as a group of one with a request for retroactive benefits starting January 1, 2015. The Claimant provided documentation of countable assets including a bank statement covering the period of February 25, 2015, through March 24, 2015. The Department accepted this bank statement as verification of cash assets during the period that retroactive benefits were requested. The bank statement shows a starting balance of [REDACTED] and an ending balance of [REDACTED]. The asset limit to receive MA benefits as a group of one by a Medicaid eligible person is [REDACTED]. BEM 400. On May 5, 2015, the Department notified the Claimant that he was approved for ongoing MA benefits with a monthly deductible, but that retroactive benefits for January and February had been denied based on countable assets.

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.

- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service.
Department of Human Services Bridges Administrative Manual (BAM) 600
(October 1, 2015), pp 3-4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (October 1, 2015), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.

The Department's representative testified that the Claimant's request for a hearing was received for than 90 days after the date the Department gave notice that retroactive benefits had been denied.

However, the Department has the burden of going forth with evidence to establish that its actions were a properly application of its policies. In this case, the Department failed to present sufficient evidence of the date that retroactive benefits was sent. If the Claimant's request for a hearing was received more than 90 days after that notice, he would not have a right to a hearing to protest the denial of retroactive benefits for January and February, and the Michigan Administrative Hearing System would not have the authority to issue an order to the Department on this issue.

In the alternative, if the Claimant were to establish that he submitted a timely hearing request, the Claimant has the burden to establish eligibility to receive benefits. The Claimant's representative testified that cash assets in January and February were higher than normal due to billing difficulties with the facility were the Claimant was receiving long term care. Despite these irregularities with the Claimant's savings, this Administrative Law Judge finds that the Claimant failed to establish that countable cash assets were less than ██████████ in January or February of 2015. Having outstanding bills is not an exception to countable assets under Department policy 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 retroactive Medical Assistance (MA) from January 1, 2015, through ██████████.

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 Mailed: 02/16/2016

KS/db

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]