



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 3, 2016
MAHS Docket No.: 15-023664
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Following Petitioner'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 March 22, 2016 from Lansing, Michigan. Petitioner was represented by her authorized hearing representatives from [REDACTED], [REDACTED] and [REDACTED]. The Department was represented by Assistance Payments Worker [REDACTED] and Assistance Payments Supervisor [REDACTED]. Testimony was received from all participants.

ISSUE

Did the Department properly deny Petitioner's September 30, 2015 Medical Assistance (MA) application 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 September 30, 2015, an application for Medical Assistance (MA) Long Term Care (LTC) benefits was submitted including retroactive coverage from June 1, 2015.
2. On October 29, 2015, a Verification Checklist (DHS-3503) was issued.
3. On November 6, 2015, a Health Care Coverage Determination Notice (DHS-1606) was issued which stated Petitioner was not eligible due to having excess assets.
4. On December 11, 2015, a hearing request was submitted on behalf of Petitioner.

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 has denied Petitioner's application based on their classification of monthly payments made from Petitioner's checking account to the Nursing Facility as pre-payments for her [REDACTED] (LTC). The evidence in this record shows that: on June 23, 2015 check number 855 for \$ [REDACTED] was paid to the nursing facility; on July 7, 2015 check number 856 for \$ [REDACTED] was paid to the nursing facility; on August 1, 2015 check number 857 for \$ [REDACTED] was paid to the nursing facility; and on September 1, 2015 check number 858 for \$ [REDACTED] was paid to the nursing facility. The Department cites Bridges Eligibility Manual (BEM) 405 MA Divestment page 13 as the authority for their action. Page 13, under Penalty Period, Computing Penalty Period provides the following note:

Note: An individual is not eligible for MA in a month they have pre-paid 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, count the money held by a nursing facility as cash.

However, Department's Exhibit A page 39, the August 2015 statement for Petitioner's trust account at the nursing facility shows a consistent balance of \$ [REDACTED]. The payments submitted to the nursing facility were applied to the already incurred costs of her Long Term Care. The amount of the payments was based on a projection of what Petitioner's patient pay amount would be, if and when she was approved for Medical Assistance (MA) [REDACTED] (LTC) benefits. The payments were not being held for Petitioner. There is a difference between funds paid to a nursing facility for bills not yet incurred and payments toward expenses that have already been incurred.

The \$ [REDACTED] monthly payments at issue in this case are not prepaid LTC expenses and should not be counted as cash. 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 Petitioner's September 30, 2015 Medical Assistance (MA) application for [REDACTED] [REDACTED] (LTC) benefits.

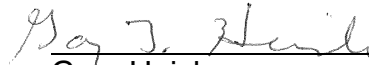
DECISION AND ORDER

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. Reregister Petitioner's September 30, 2015 application for Medical Assistance (MA) [REDACTED] LTC) benefits back to June 1, 2015; reprocess the application in accordance with Department procedures; and issue Petitioner a current notice of the reprocessed eligibility.

GH/nr



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]