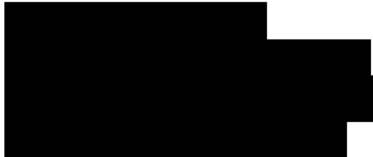




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 20, 2016
MAHS Docket No.: 16-002675
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on May 03, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included the Petitioner's authorized hearing representative and son [REDACTED], and [REDACTED]. Stephanie Warner (Hearing Facilitator) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included Carol Ochampaugh. This hearing was combined with a hearing for the Petitioner's Spouse and although they are in separate benefit groups, their hearing requests concern the same issue. (See REG 16-002674)

ISSUE

Did the Department of Health and Human Services (Department) properly close the Petitioner's Medical Assistance (MA) 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. The Petitioner was an ongoing Medical Assistance (MA) recipient.
2. On September 30, 2015, the Department received the Petitioner's Long Term Care Redetermination (DHS-4574). Exhibit A.
3. On October 16, 2015, the Department discovered that the long term care facility where the Petitioner is receiving care has a \$2,450.30 credit on her account. Exhibit C.

4. On October 16, 2015, the Department notified the Petitioner that as of November 1, 2015, she is not eligible for Medical Assistance (MA) because her countable assets exceed the \$2,000 limit. Exhibit D.
5. On February 8, 2016, the Department received the Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) 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 (April 1, 2016), pp 1-7.

Countable cash assets include money being held for a long term care patient by the facility in advance for the nursing home stay. BEM 400, p 15.

The limit to receive MA benefits for a person is long term care is \$2,000. BEM 400, p 7.

The Petitioner was an ongoing MA recipient when the Department received verification that she had a \$2,450.30 credit with her long term care provider during a period when she had no patient pay amount with respect to her long term care benefits. On October 16, 2015, the Department determined that the Petitioner was no longer eligible for MA benefits because her countable assets exceeded the \$2,000 limit.

The Petitioner's representative argued that this money was not available to the Petitioner and only appeared to be an asset due to an accounting irregularity on the part of the care provider. The Petitioner's representative testified that he paid this money to

ensure that his parents would receive adequate long term care and he did not intend for the facility to hold the money on behalf of his parents.

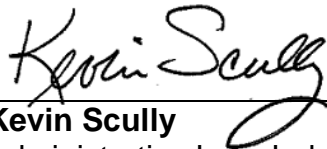
This Administrative Law Judge finds that funds held by a care provider are countable assets as defined by BEM 400, and that the Department used the best information available at the time MA benefits were closed regardless of the representative's intentions.

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 closed the Petitioner's Medical Assistance (MA) benefits due to excess assets.

DECISION AND ORDER

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

KS/las



Kevin Scully
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

Carisa Drake
190 East Michigan
Battle Creek, MI 49016

Calhoun County DHHS
BSC3
M. Best
EQAD
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Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]