



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: July 13, 2016  
MAHS Docket No.: 16-001052  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Robert J. Chavez**

**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/an telephone hearing was held on March 24, 2016, from Detroit, Michigan. The Petitioner was represented by ██████████ ██████████ Authorized Hearings Representative (AHR). Also appearing was ██████████ ██████████ The Department of Health and Human Services (Department) was represented by ██████████, Assistance Payments Worker, and ██████████ Assistance Payments Supervisor.

**ISSUE**

Did the Department properly deny Medical Assistance (MA) benefits for the month of August, 2015, 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. Petitioner applied for MA on September 30, 2015.
2. Petitioner requested retroactive MA benefits for the month of August, 2015.
3. The asset limit for the MA program in question was ██████████.
4. On July 30, 2015, a bank account held by the Petitioner was cashed out for the amount of ██████████

5. On August 20, 2015, a new account was opened with that same deposit.
6. On August 20, 2015, Petitioner's nursing facility gave Petitioner an estimated post-eligibility patient pay amount (PPA) of [REDACTED]
7. Petitioner paid this amount on August 20, 2015, with the understanding that any monies in excess of the actual patient would be refunded.
8. As a result of Petitioner paying this estimated PPA, Petitioner's assets during the month of August dropped to [REDACTED], after counting other miscellaneous expenditures.
9. On September 30, 2015, Petitioner paid an estimated PPA of [REDACTED] for the month of September.
10. On October 29, 2015, Petitioner's MA application was fully processed.
11. Petitioner was given a PPA of [REDACTED] per month.
12. On October 29, 2015, MA for September 2015 was approved; however, MA for August 2015 was denied.
13. The reason for the August 2015 denial was stated as excess assets.
14. Petitioner was considered to have excess assets because the estimated PPA paid by the Petitioner was considered a "prepayment"; under policy, prepayments of LTC care are still considered the assets of the Petitioner.
15. Petitioner would have been asset eligible for MA benefits if the estimated PPA payment had not been considered an asset.
16. On January 26, 2016, Petitioner requested a hearing.

### **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.

Prior to the MA eligibility determination, Petitioner prepaid an estimated PPA to the LTC facility; this payment lowered Petitioner's available assets below the asset eligibility threshold, which would normally render Petitioner eligible for MA benefits.

The Department argued that Petitioner had excess assets during the time period in question; in support of this position, the Department cited BEM 405, which reads in part that an individual is not eligible for MA in a month they have pre-paid for long term care; money prepaid in this way must be counted as an asset. BEM 405, pg. 13 (2015).

Petitioner argues that paying an estimated PPA should not count as a "prepayment" as considered by policy; as such Petitioner's payment of the estimated PPA would have rendered their assets below the asset eligibility limit for MA benefits, and thus giving the Petitioner eligibility for MA during the month in question.

While the undersigned is sympathetic to the Petitioner's argument, after long consideration and much research, the undersigned considers the argument irrelevant to the current case.

Per policy found in BEM 546, in calculating MA eligibility and the PPA, the Department is to first determine MA eligibility; afterwards, the Department determines the PPA, which would then presumably be paid by the client. BEM 546, pg. 1 (2015).

Furthermore, during the hearing, it was uncontested that the funds in the bank account in question, totaling ██████████, were assets during the month in question.

Based on the above policy, even if we were to assume that Petitioner was correct, and that the payment of the estimated PPA was not a "prepayment" as contemplated by policy, the fact remains that the eligibility determination in the present case must be calculated before the Petitioner's payment of the PPA and its determination. As such, Petitioner's low asset balance for the month of August was ██████████, which is the amount calculated when one adds the monthly low balance to the Petitioner's estimated PPA payment.

Because we must consider MA asset eligibility before the PPA is even considered, Petitioner must therefore be considered over the asset limit with regard to MA for the month in question; Petitioner had excess assets.

As such, the Department was correct when it determined that Petitioner was ineligible for MA due to excess assets, even though the exact reasoning as stated in the notice of denial is not necessarily the correct reasoning. While Petitioner may not have made a prepayment, as contemplated by policy in BEM 405, Petitioner was still over the asset

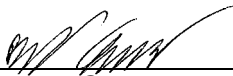
limit, when considering that the Department must determine MA eligibility before setting a PPA.

Therefore, 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 MA eligibility to the Petitioner for the month of August, 2015, due to excess assets.

**DECISION AND ORDER**

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

RC/tm

  
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**Robert J. Chavez**  
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

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CC: [REDACTED]  
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