



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: [REDACTED]
MAHS Docket No.: [REDACTED]
Agency No.: 115384677
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 [REDACTED], from Detroit, Michigan. Petitioner did not appear. Petitioner was represented by her attorney, [REDACTED]. [REDACTED] testified on behalf of Petitioner. [REDACTED] of the Office of Attorney General appeared as legal counsel for the Michigan Department of Health and Human Services (MDHHS). [REDACTED], manager, and [REDACTED], specialist, testified on behalf of MDHHS.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Medical Assistance (MA) eligibility 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 was an ongoing MA recipient.
2. Petitioner's MA eligibility was scheduled for redetermination.
3. Petitioner had monthly income of \$1219 in SSA-issued benefits and a monthly pension of \$1,462.48.
4. In [REDACTED], Petitioner's verified bank account balances totaled \$3,932.11.

5. In [REDACTED], Petitioner's verified bank account balances totaled \$3,986.74.
6. On [REDACTED], MDHHS mailed Petitioner written notice of MA termination, effective [REDACTED], due to excess assets.
7. On [REDACTED], Petitioner's attorney requested a hearing to dispute the termination of MA benefits.

CONCLUSIONS OF LAW

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. MDHHS (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's attorney requested a hearing to dispute a termination of MA benefits. Petitioner's attorney testified the termination began [REDACTED]. MDHHS presented a Health Care Coverage Determination Notice (Exhibit 1, pp. 1-3) indicating a termination of MA benefits beginning [REDACTED]. Unfortunately, this discrepancy was not spotted during the hearing. It is plausible that Petitioner's attorney was mistaken in disputing MA eligibility from [REDACTED]. To insure that Petitioner's interests are not disregarded, it will be assumed that the MA termination began [REDACTED].

It was not disputed that the denial was based on excess assets. It was not disputed that Petitioner was disabled. As a disabled individual, Petitioner is subject to the SSI-related asset limit.

Assets must be considered in determining eligibility for... SSI-related MA categories... BEM 400 (January 2016), p. 1. The SSI-Related MA asset limit for a group size of 1 (Petitioner's group size was agreed to be 1) is \$2,000 (see *Id.*, p. 7).

MDHHS testimony indicated Petitioner's asset eligibility was based on the combined balance of two checking accounts. Checking accounts are a countable asset limit in determining SSI-related MA benefits (see *Id.*, p. 14).

MDHHS presented a checking account statement covering [REDACTED], through [REDACTED] (Exhibit 1, pp. 6-7); the statement listed an ending balance of \$3,304.53. MDHHS presented a statement from a second checking account covering [REDACTED], through [REDACTED] (Exhibit 1, pp. 8-9); an ending balance of \$627.58 was stated.

MDHHS testimony indicated a second asset-eligibility determination was made. MDHHS presented online checking account information (Exhibit 1, pp. 12-13) listing a balance of \$74.21 as of January 25, 2016. MDHHS presented "Account Activity" for a second bank account (Exhibit 1, p. 14) stating a balance of \$3,912.53 as of [REDACTED]

The asset-eligibility determination is not as simple as adding the checking account balances together and determining if the total exceeds the \$2,000 asset limit. Income directly deposited into bank accounts must also be factored.

[For purposes of SSI-related MA, MDHHS is to] not count funds treated as income by a program as an asset for the same month for the same program. *Id.*, p. 21. This policy justifies the subtraction of income directly deposited into a bank account for purposes of determining countable assets.

It was not disputed Petitioner had two different incomes. MDHHS presented a SSA award letter (Exhibit 1, p. 10) listing a net monthly income of \$1219. MDHHS presented a bank account form (Exhibit 1, p. 11) reflecting a \$1,462.48 deposit; it was not disputed that the deposited amount was for a monthly pension. Each income was deposited into a different bank account of Petitioner's

MDHHS contended Petitioner is not entitled to a full subtraction of directly deposited income from bank accounts for an asset determination. Instead, MDHHS contended that Petitioner is only entitled to the subtraction of income from the account balance in which it is deposited.

In the first asset determination, MDHHS subtracted Petitioner's full SSA income (\$1,219) from \$3,304.53. MDHHS did not factor the second account balance because subtracting Petitioner's pension from the account creates a negative number. The result was a determination that Petitioner had \$2,085.53 in assets.

For the second determination, MDHHS subtracted Petitioner's full SSA income (\$1,219) from \$3,912.53. MDHHS did not factor the second account balance because subtracting Petitioner's pension from the account creates a negative number. The result was a determination that Petitioner had \$2,693.53 in assets.

There is no known policy which directs MDHHS to cap the exclusion of directly deposited income by the amount in the direct-deposit account's balance. MDHHS happens to have policy for how to calculate federal income tax refunds (which are also excludable from the asset determination).

Federal income tax refunds are excluded for 12 months from the month of receipt. *Id.* The refund amount is subtracted from the household's total assets to determine if they meet the asset limit. *Id.*, p. 20.

In lieu of specific policy on how MDHHS is to count bank account balances which include direct-deposited income, the federal income tax refund asset policy will be applied to Petitioner's circumstances. The policy directs MDHHS to subtract the amount from the total assets, not just the account into which the tax refund is deposited. For the first completed asset determination, subtracting Petitioner's directly deposited income from the bank account balances results in a countable asset total of \$1,250.63. For the second asset determination, Petitioner would have \$1,305.26 in assets. Either countable asset total renders Petitioner to be asset eligible to receive SSI-Related MA benefits. Accordingly, it is found MDHHS improperly terminated Petitioner's MA eligibility.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's MA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's MA eligibility, effective [REDACTED], subject to the finding that Petitioner was asset eligible; and
- (2) Issue any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki

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 [REDACTED]; 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]

Counsel for Respondent

[REDACTED]

Petitioner

[REDACTED]

Counsel for Petitioner

[REDACTED]