



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: July 15, 2016  
MAHS Docket No.: 16-006207  
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 June 21, 2016, from Lansing, Michigan. The Petitioner was represented by her Authorized Hearings Representative (AHR) [REDACTED]. The Department was represented by [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

**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 March 30, 2016, the Department received the Petitioner's completed Redetermination (DHS-1010) form. Exhibit A, pp 6 – 11.
3. The Petitioner reported having a trust on her Redetermination form that the Department had not evaluated, and this trust was submitted to the Department's Office of Legal Services, Trusts & Annuities Unit to determine its effect on her eligibility to receive benefits. Exhibit A, pp 16 – 27.
4. The Petitioner reported that the trust has a value of \$ [REDACTED] Exhibit A, p 9.

5. On April 28, 2016, the Department notified the Petitioner that she was no longer eligible for Medical Assistance (MA) benefits as of June 1, 2016, based on her countable assets including her trust. Exhibit A, pp 32 – 33.
6. On May 5, 2016, the Department received the Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) benefits. Exhibit A, p 3.

### **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.

An irrevocable Trust is a trust that is not a revocable trust. A revocable trust is a trust which can be revoked or modified by the grantor, a court, the trustee, or any other person or entity. The Department will count as the person's countable asset the value of the countable assets in the trust principal if there is any condition under which the principal could be paid to or on behalf of the person from an irrevocable trust. Department of Health and Human Services Bridges Eligibility Manual (BEM) 401 (April 1, 2016), pp 4 - 11.

In this case, the Department received the Petitioner's completed Redetermination (DHS-1010) form where the Petitioner reported having a trust that had not been previously evaluated by the Department. The Petitioner reported to the Department that the value of the trust is \$ [REDACTED]

The trust meets the Department's definition of an irrevocable trust. The trust also contains the following clause:

Power to Accumulate Income: No Payments of income or principle, other than small amounts of income advanced for incidentals, are to be made directly to [REDACTED]. Any income not extended by trustee for the purchase of amenities shall be re-added to principle from time to time and reinvested by trustee.

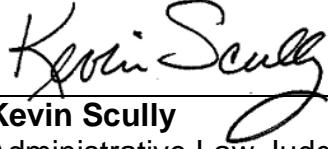
This Administrative Law Judge finds that the Department properly determined that the value of the trust is a countable asset as directed by BEM 401. It was not disputed during the hearing that the value of the trust exceeded the limit for the Petitioner to remain eligible for MA benefits as listed in 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 closed the Petitioner's Medical Assistance (MA) benefits as of June 1, 2016, due to her countable assets.

#### **DECISION AND ORDER**

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

KS/las

  
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**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**

[REDACTED]

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]