



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 18, 2016
MAHS Docket No.: 16-007104
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 30, 2016, from Lansing, Michigan. The Petitioner was represented by her advocate, [REDACTED] of [REDACTED] her daughter [REDACTED], and testified on her own behalf. The Department was represented by [REDACTED] (Hearing Facilitator).

ISSUE

Did the Department of Health and Human Services (Department) properly close the Petitioner's Medical Assistance (MA)?

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 2, 2016, the Department received the Petitioner's completed Redetermination (DHS-1010) form. Exhibit A, p 2.
3. On March 3, 2016, the Department sent the Petitioner a Verification Checklist (DHS-3503) requesting a currently dated bank statement for an account reported on her Redetermination form. Exhibit A, p 8.
4. On March 14, 2016, the Petitioner submitted a bank statement showing a \$ [REDACTED] balance in her savings account and a \$ [REDACTED] balance in her checking account. Exhibit A, p 9.

5. The Petitioner receives monthly benefits from the Social Security Administration (SSA) in the monthly amount of \$ [REDACTED] Exhibit A, p 9.
6. On March 14, 2016, the Department notified the Petitioner that she was not eligible for Medical Assistance (MA) as of April 1, 2016. Exhibit A, p 17.
7. On May 20, 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.

Do not count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p 21.

The Petitioner was an ongoing MA recipient when the Department initiated a routine redetermination of her eligibility to receive continuing benefits. The Petitioner provided the Department with verification of her countable assets, which consist of a savings account with a balance of \$ [REDACTED] and a checking account of \$ [REDACTED]. When the Petitioner's currently received income is excluded consideration as directed by BEM 400, the Department determined that the Petitioner had countable assets totaling \$ [REDACTED]. This exceeds the limit for a Medicare eligible person to receive MA benefits, which is \$2,000. BEM 400, p 8.

The Petitioner did not dispute that her assets exceeded the \$2,000 limit but argued that this was because she is saving up to purchase a hearing aid. The Petitioner argued that closing her MA benefits because she is saving her money for a necessary purchase is an unfair application of policy in her circumstances.

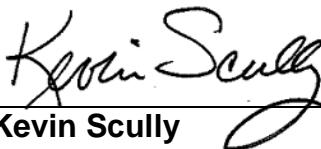
The Petitioner's grievance centers on dissatisfaction with the Department's current policy. The Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to overrule statutes, overrule promulgated regulations, or make exceptions to the Department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

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 when her countable assets exceed the limit set in BEM 400.

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

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]