



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: July 15, 2016  
MAHS Docket No.: 16-007478  
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 July 07, 2016, from Lansing, Michigan. The Petitioner was represented by her attorney [REDACTED] and her authorized representative [REDACTED]. The Department was represented by [REDACTED] (Assistant Attorney General), [REDACTED] (PATH Coordinator), and [REDACTED] (Eligibility Specialist).

**ISSUE**

Did the Department of Health and Human Services (Department) properly determine the Petitioner's eligibility for 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. On January 21, 2016, the Department received the Petitioner's application for Medical Assistance (MA) and Long Term Care (LTC) benefits.
2. On May 25, 2016, the Department notified the Petitioner that she was approved for Medical Assistance (MA) subject to a patient pay amount and a divestment penalty would apply towards Long Term Care (LTC) benefits.
3. On May 27, 2016, the Department received the Petitioner's request for 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.

On January 21, 2016, the Department received the Petitioner's application for MA benefits and LTC benefits. On May 25, 2016, the Department notified the Petitioner that she was approved for MA benefits subject to a patient pay amount and that a divestment penalty would apply towards LTC benefits.

The Department concedes that the divestment penalty was not determined in accordance with policy. The Department also concedes that the Petitioner's eligibility was not properly determined with respect to countable assets, which may also affect a divestment penalty.

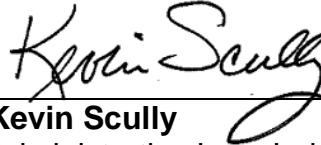
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined the Petitioner's eligibility for Medical Assistance (MA) benefits and Long Term Care (LTC) benefits.

### **DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Reprocess the Petitioner's January 21, 2016, application for Medical Assistance (MA) and Long Term Care (LTC) benefits in accordance with policy with adequate notice to the Petitioner.



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

**Counsel for Petitioner**

[REDACTED]

**Counsel for Respondent**

[REDACTED]

**DHHS**

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]