



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: October 24, 2016  
MAHS Docket No.: 16-013699  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Darryl Johnson

### **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 October 19, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED].

### **ISSUE**

Did the Department properly deny Petitioner Medical Assistance (MA) during the months of April and May of 2016?

### **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 May 31, 2016, (Exhibit 1 Pages 3-6 and 7-9) and requested retroactive benefits.
2. On July 6, 2016, Petitioner submitted statements from her bank accounts (Pages 26-35) in response to a Verification Checklist (Pages 23-24).
3. After reviewing the bank statements, the Department granted Petitioner MA benefits, with a \$ [REDACTED] monthly deductible, for the months of February and March of 2016, and for June 2016 and on-going, but denied her benefits for the

months of April and May 2016 because it found she had excess assets during those two months.

4. On September 16, 2016, the Department received Petitioner's hearing request, protesting the denial of MA for April and May 2016.

### **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.

In this case, the Department reviewed Petitioner's bank statements for the months of April and May 2016, to determine whether her assets exceeded the \$2,000 limit set in BEM 400 (7/1/16) p. 8 for someone in a group of one seeking SSI-related MA. The bank statements cover a period of mid-month to mid-month. The statement for March 15, 2016 through April 14, 2016, is found at Exhibit 1, Page 33. The statement for April 15, 2016 through May 13, 2016, is found at Pages 34-35. The statement for May 14, 2016, through June 14, 2016, is found at Exhibit 1, Pages 26-28.

BEM 400, p. 21 instructs the Department that it is not to count funds treated as income by a program as an asset for the same month for the same program. The effect of this is that an applicant who receives Social Security during a month will have the Social Security payment counted as income for that month and, even if the payment is in her bank account, it is not counted as an asset during that month.

When the Department reviewed the bank statements, it concluded that Petitioner was not eligible for MA in April and May because there was not any one day when the bank balance was at or below \$2,000. As BEM 400, p. 6 explains, "Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested." Looking at the bank statements, the beginning balance on April 14, 2016, is \$ [REDACTED]. She was receiving a check from the Social Security Administration each month for \$ [REDACTED]. When the Department subtracted her Social Security benefit from the \$ [REDACTED] balance, she was found to have \$ [REDACTED] in her account, and that exceeded the \$2,000 limit. The Department

used the same analysis as it looked at the ending balance on May 13, 2016 of \$ [REDACTED]. When the ending balance is reduced by the \$ [REDACTED] Social Security benefit, she had a balance of \$ [REDACTED]. That too exceeded the asset limit.

The Department took a shortcut when it calculated her eligibility for those two months. It was obligated to evaluate her eligibility by calculating whether her assets were below the limit every day during the month. Following is a spreadsheet that includes every transaction shown on the statements that cover the months in question.

Date	Transaction Type	Transaction Amount	Running Balance	Running Balance Less Social Security
	Beginning			
3/16/2016	Balance	\$ [REDACTED]		
3/23/2016	SSA	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
3/29/2016	ATM	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
3/29/2016	ATM	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
3/31/2016	Card Purchase	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
4/4/2016	Check 1430	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
4/7/2016	Check 1431	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
4/27/2016	SSA	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
4/27/2016	Check 1436	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
4/28/2016	Check 1433	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
4/28/2016	Check 1434	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/3/2016	Card Purchase	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/9/2016	Check 1435	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/9/2016	Check 1437	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/9/2016	Check 1439	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/9/2016	ATM	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/10/2016	Card Purchase	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/11/2016	Card Purchase	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/12/2016	Check 1432	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/13/2016	Check 1440	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/13/2016	Check 1442	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/13/2016	Check 1443	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/16/2016	Check 1441	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/18/2016	Card Purchase	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/20/2016	Check 1438	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
5/23/2016	Check 1444	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
<b>5/23/2016</b>	<b>Check 1445</b>	<b>\$ [REDACTED]</b>	<b>\$ [REDACTED]</b>	<b>\$ [REDACTED]</b>

<b>5/23/2016</b>	<b>Vz Wireless</b>	\$		\$		\$	
<b>5/23/2016</b>	<b>Card Purchase</b>	\$		\$		\$	
<b>5/23/2016</b>	<b>Card Purchase</b>	\$		\$		\$	
<b>5/24/2016</b>	<b>Card Purchase</b>	\$		\$		\$	
5/25/2016	SSA	\$		\$		\$	
5/26/2016	Card Purchase	\$		\$		\$	
5/31/2016	Card Purchase	\$		\$		\$	
5/31/2016	Card Purchase	\$		\$		\$	
5/31/2016	Card Purchase	\$		\$		\$	
6/1/2016	Check 1446	\$		\$		\$	
6/2/2016	Check 1447	\$		\$		\$	
6/2/2016	Check 1448	\$		\$		\$	
6/6/2016	Card Purchase	\$		\$		\$	
6/6/2016	Card Purchase	\$		\$		\$	
6/6/2016	Card Purchase	\$		\$		\$	
6/6/2016	ATM	\$		\$		\$	
6/7/2016	Card Purchase	\$		\$		\$	
6/8/2016	Card Purchase	\$		\$		\$	
6/8/2016	Vz Wireless	\$		\$		\$	
6/9/2016	Check 1449	\$		\$		\$	
6/9/2016	Card Purchase	\$		\$		\$	
6/9/2016	Card Purchase	\$		\$		\$	
6/9/2016	Card Purchase	\$		\$		\$	
6/10/2016	Card Purchase	\$		\$		\$	
6/10/2016	Card Purchase	\$		\$		\$	
6/13/2016	Check 1511	\$		\$		\$	
6/13/2016	Card Purchase	\$		\$		\$	
6/13/2016	Card Purchase	\$		\$		\$	
6/14/2016	Card Purchase	\$		\$		\$	
6/14/2016	Card Purchase	\$		\$		\$	

The entries noted in **bold print** identify those dates when the bank balance, less the Social Security payment, were less than \$2,000. It is readily clear that Petitioner's assets were less than \$2,000 on at least one day during May 2016. There is not a date during April when she had less than \$2,000 in assets, and therefore the Department was correct for that month, but the Department erred in finding she had excess assets during May 2016.

### DECISION AND ORDER

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

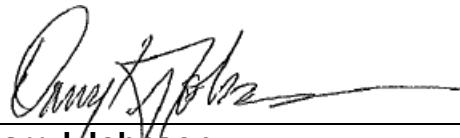
act in accordance with Department policy when it denied her MA for the month of May 2016. The Department acted in accordance with Department policy for all other months.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the decision to award Petitioner MA for the months of February 2016, March 2016, and June 2016 and on-going, and its decision to deny MA for the month of April 2016, and **REVERSED IN PART** with respect to its denial of MA for the month of May 2016.

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:

1. Redetermine Petitioner's eligibility for MA for May 2016, and provide her with benefits if she is found to be eligible.

DJ/mc



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**Darryl Johnson**  
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]

**Petitioner**

[REDACTED]