



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 1, 2016
MAHS Docket No.: 16-003570
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 May 2 2016, from Detroit, Michigan. The Petitioner was represented by her Authorized Hearing Representatives (AHR) [REDACTED] and [REDACTED], Co-Legal Guardians, and [REDACTED], her son in law. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) case on the basis that the value of her countable assets exceeded the limit?

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 recipient of MA benefits.
2. In connection with a redetermination, Petitioner's eligibility to receive MA benefits was reviewed. (Exhibit A)
3. On December 15, 2015, the Department sent Petitioner a Redetermination that she was instructed to complete and return by January 4, 2016. (Exhibit A)

4. The completed Redetermination and additional verifications were timely received by the Department.
5. In connection with a redetermination, Petitioner submitted a bank statement from [REDACTED] for a checking and savings account for the period of November 7, 2015, to December 4, 2015, as verification of her assets. (Exhibit B)
6. On January 4, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective February 1, 2016, she was no longer eligible for MA on the basis that the value of her countable assets is higher than allowed for the MA program. (Exhibit C)
7. On March 11, 2016, Petitioner's AHR requested a hearing on her behalf, disputing the Department's actions.

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.

The Department contended that Petitioner was ineligible for MA effective February 1, 2016, because her assets exceeded the limit for MA eligibility. Asset eligibility is required for MA coverage under SSI-related MA categories, which are categories providing MA coverage to individuals who are aged, disabled or blind. BEM 400 (January 2016), p. 1; BEM 105 (January 2016), p. 1. For SSI-related MA, the asset limit is \$2000 for an individual. BEM 400, p. 7; BEM 211 (January 2016), p. 5.

At the hearing, the Department testified that because Petitioner submitted a bank statement which reflected ending balances of [REDACTED] for her checking account and [REDACTED] for her savings account, it concluded that the value of her countable assets exceeded the applicable \$2000 MA asset limit. (Exhibit B).

Checking and savings accounts are assets. BEM 400, p. 14. The value of an account is the amount of cash in the account. BEM 400, p. 16. Department policy provides that

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. BEM 400, p. 6.

Although the Department stated that no other assets were considered in the MA asset determination and that Petitioner did not submit any additional bank statements, the Department failed to present a MA Asset Budget to show a breakdown of the exact assets and amounts considered. Additionally, the Department was required to use the lowest balance in the month being tested to calculate the value of countable assets for MA eligibility. In this case, the Department testified that it relied on the ending balances.

Furthermore, it was discovered upon further review of the bank statements that deposits were made from [REDACTED] for what appears to possibly be income from a pension and the Social Security Administration for Petitioner's monthly income from RSDI. (Exhibit B). Department policy provides that the Department is not to count funds treated as income by a program as an asset for the same month for the same program. BEM 400, p. 20. In this case, the Department was required to exclude Petitioner's income from the asset calculation, which the Department failed to establish that it did. Therefore, because the Department relied on the ending balance for the month being tested and because the Department improperly included Petitioner's income in the asset determination, the Department failed to properly calculate the value of Petitioner's countable assets.

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 closed Petitioner's MA case on the basis that the value of her assets exceeded the \$2000 limit.

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:

1. Reinstate Petitioner's MA case effective February 1, 2016;
2. Provide Petitioner with MA coverage under the most beneficial category from February 1, 2016, ongoing; and
3. Notify Petitioner and her AHR in writing of the Department's decision.



ZB/tlf

Zainab A. Baydoun
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

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