



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: November 15, 2016  
MAHS Docket No.: 16-013877  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Michael J. Bennane**

**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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED].

**ISSUE**

Did the Department properly deny the Petitioner's Medical Assistance (MA) application for excess assets?

**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 [REDACTED], the Department sent the Petitioner a Health Care Coverage Supplemental Questionnaire.
2. On [REDACTED], the Department sent the Petitioner a Verification Checklist (VCL) requesting various pieces of information concerning the Petitioner's revocable living trust.
3. On [REDACTED], the Department sent the Petitioner a Health Care Coverage Determination Notice (HCCDN) informing the Petitioner that his MA application had been denied for excess assets.

4. On [REDACTED], the Department sent the [REDACTED] Bank a Verification of Assets form that that was not completed.

### 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 Petitioner applied for MA benefits for himself and his spouse. The Department denied the Petitioner's MA application for excess assets.

The Department's review of the Petitioner's assets included the Petitioner's homestead value and evaluation of a second home.

The first home, at [REDACTED], is owned by a living revocable trust but has no value as the assessed valuation of \$ [REDACTED] is lower than the amount owed on the mortgage, \$ [REDACTED].

The second home, is the Petitioner's homestead. The Department testified that because the Petitioner holds his homestead in a living revocable trust it is a countable asset even though the Petitioner lives in the home.

Department policy also states that the Department should provide the Petitioner "best available" MA benefits.

The Department denied the Petitioner's MA application for excess assets but made no calculation as to the Petitioner's eligibility for Modified Adjusted Gross Income (MAGI) or Healthy Michigan Plan (HMP), and the calculations that determined the denial of the Petitioner's MA application appear to be conflicting.

### 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 the Petitioner's MA application by failing to calculate whether the Petitioner qualified for another type of MA benefits.

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. Recalculate the Petitioner's MA eligibility for G2 MA benefits and HMP benefits. HMP has no asset test.

MJB/jaf

  
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**Michael J. Bennane**  
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]

[REDACTED]