



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: July 20, 2017  
MAHS Docket No.: 17-006814  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

**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; 42 CFR 438.400 to 438.424; 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. Petitioner was represented by her Authorized Hearing Representative (AHR)/guardian, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor; and [REDACTED], Assistance Payments Worker.

**ISSUE**

Did the Department properly deny Petitioner's long-term care (LTC) Medical Assistance (MA) application dated [REDACTED], retroactive to [REDACTED] and [REDACTED], due to 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 AHR submitted an LTC MA application on behalf of Petitioner, retroactive to [REDACTED] and [REDACTED]. [Exhibit A, pp. 2-9.]
2. Petitioner's MA asset group size is one.
3. Included with the application, the AHR provided Petitioner's bank statements from [REDACTED], which included Petitioner's variable rate Individual Retirement Account (IRA) #8. The IRA was jointly owned by Petitioner and the AHR. [Exhibit A, pp. 22-35.]

4. Petitioner's IRA had a balance of \$ [REDACTED] during the period of [REDACTED], [REDACTED], and [REDACTED]. [Exhibit A, pp. 26 and 35.]
5. As a result of the submission of Petitioner's asset verification, the Department processed her retroactive application and determined that she was not eligible for MA benefits effective [REDACTED], ongoing, due to the value of her IRA exceeding the asset limits.
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) informing her that she was not eligible for MA coverage effective [REDACTED], because the value of her countable assets is higher than allowed for this program. [Exhibit A, pp. 39-42.]
7. On [REDACTED], the AHR filed a hearing request, protesting the Department's action. [Exhibit A, pp. 1 and 43.]

### **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.

As a preliminary matter, it was discovered that "[REDACTED]" was the AHR because [REDACTED], Petitioner's guardian, authorized the representation. However, shortly after commencement of the hearing, [REDACTED] withdrew "[REDACTED]" as the AHR on the record; and instead, [REDACTED] assumed the role as the AHR. [Exhibit A, p. 11.]

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (April 2017), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1. The Medicaid program comprise several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p. 1. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children,

MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, p. 1.

In this case, the AHR submitted an LTC MA application on behalf of Petitioner, retroactive to [REDACTED] and [REDACTED]. [Exhibit A, pp. 2-9.] The Department determines eligibility for each retro MA month separately. BAM 115 (April 2017), p. 13. To be eligible for retro MA month, the person must meet all financial and nonfinancial eligibility factors in that month, which means they must be asset eligible. BAM 115, p. 14. The Department indicated that if Petitioner was found eligible for her LTC application, she would have received MA coverage under an SSI-related category. However, there is an asset test required for SSI-related MA categories that Petitioner must pass in order for her to be eligible.

Assets must be considered in determining eligibility for SSI-related MA categories. BEM 400 (April 2017), p. 1. 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. At application, do not authorize MA for future months if the person has excess assets on the processing date. BEM 400, p. 6. For all other SSI-related MA categories, the asset limit is \$2,000 for an asset group of one. BEM 400, p. 8.

Based on the above policy, in order for Petitioner to be eligible for MA coverage under an SSI-related category, such as Group 2 Spend-Down (G2S) or Extended-Care, her countable assets cannot exceed the asset limit of \$2,000 for a group size of one. BEM 400, p. 8; BEM 164 (April 2017), pp. 1-4; and BEM 166 (April 2017), pp. 1-3.

Included with the application, the AHR provided Petitioner and the AHR's (jointly owned asset) IRA, which had a balance of \$ [REDACTED] during the period of [REDACTED] [REDACTED], and [REDACTED]. [Exhibit A, pp. 26 and 35.] As a result of the submission of the asset verification, the Department processed her retroactive application and determined that she was not eligible for MA benefits effective [REDACTED], ongoing, due to the value of her IRA exceeding the asset limits.

An asset must be available to be countable. BEM 400, p. 9. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 9. The Department assumes an asset is available unless evidence shows it is not available. BEM 400, p. 10. Availability might also be affected by joint ownership and efforts to sell or the possibility of domestic violence. BEM 400, p. 10.

Jointly owned assets are assets that have more than one owner. BEM 400, p. 11. An asset is unavailable if all of the following are true and an owner cannot sell or spend his share of an asset: without another owner's consent; the other owner is not in the asset group; and the other owner refuses consent. BEM 400, p. 11. For retirement plans, the Department counts the entire amount unless the person claims and verifies a different ownership. BEM 400, p. 12. Then, each owner's share is the amount they own. BEM 400, p. 12.

Additionally, retirement accounts includes IRAs. BEM 400, p. 25. The value of these plans is the amount of money the person can currently withdraw from the plan. BEM 400, p. 26. Deduct any early withdrawal penalty, but not the amount of any taxes due. BEM 400, p. 26. Funds in a plan are not available if the person must quit his job to withdraw any money. BEM 400, p. 26.

Based on the foregoing information and evidence, the Department properly determined that Petitioner was over the asset limit for MA benefits.

First, the undersigned finds the Department properly counted the entire amount located in the IRA, despite it being held jointly by Petitioner and the AHR. During the hearing, the AHR did not claim a different ownership in the IRA. See BEM 400, p. 12. Thus, the Department properly budgeted the entire amount located in the jointly owned IRA when determining Petitioner's asset eligibility.

Second, Petitioner's IRA is a countable asset per policy. See BEM 400, p. 26. A review of the asset found that she had an available balance of \$ [REDACTED] during the periods of [REDACTED] and [REDACTED]. [Exhibit A, pp. 26 and 35.] A review of the documents did not indicate that any early withdrawal penalty would have to be deducted. See BEM 400, p. 26. Therefore, because Petitioner's IRA is a countable asset and it had an available balance of \$ [REDACTED] the Department properly determined the value of the IRA clearly exceeded the \$2,000 MA asset limit for a group size of one. See BEM 400, pp. 8 and 25-26.


Accordingly, the undersigned finds that the Department properly determined that Petitioner was not eligible for MA benefits because she was over the asset limit. See BEM 400, pp. 1-10 and 25-26.

### **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 acted in accordance with Department policy when it determined that Petitioner was not eligible for MA coverage effective [REDACTED], due to excess assets.

Accordingly, the Department's MA decision is **AFFIRMED**.

EJF/jaf



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**Eric J. Feldman**  
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]  
[REDACTED]  
[REDACTED]

**Authorized Hearing Representative**

[REDACTED]  
[REDACTED]  
[REDACTED]

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