



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: October 26, 2017
MAHS Docket No.: 17-010130
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 September 28, 2017, from [REDACTED] Michigan. Petitioner was represented by Attorney [REDACTED]. The Department of Health and Human Services (Department) was represented by Assistant Attorney General [REDACTED]. [REDACTED] appeared and testified for the Department. Department Exhibit 1, pp. 1-18 was received and admitted. Petitioner's Exhibits A-F were received and admitted.

ISSUE

Did the Department properly determine that Petitioner was over the asset limit 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. Petitioner was a recipient of MA-LTC benefits.
2. Petitioner submitted redetermination paperwork on June 30, 2017.
3. Petitioner had bank accounts with [REDACTED] with countable values of \$ [REDACTED] and \$ [REDACTED] at the time of the redetermination. (Ex. 1, pp. 10-14)

4. Petitioner's redetermination paperwork was processed and the Department determined that she was over the asset limit.
5. On July 19, 2017, a Health Care Coverage Determination Notice was issued to Petitioner informing her that her MA benefits would close due to excess assets effective July 31, 2017. (Ex.1, pp. 4-8)
6. On July 31, 2017, Petitioner requested hearing contesting the closure of MA benefits.

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.

MA ASSET ELIGIBILITY

G2U, G2C, RMA, and SSI-Related MA Only

Asset eligibility is required for G2U, G2C, RMA, and SSI-related MA categories.

Note: Do **not** deny or terminate Group 2 Pregnant Women because of a refusal to provide asset information or asset verification requested for purposes of determining G2U, G2C, RMA or SSI-related MA eligibility.

Use the special asset rules in BEM 402, SPECIAL MA ASSET RULES, for certain married L/H and waiver patients. See BPG Glossary, for the definition of L/H patient and BEM 106, MA WAIVER FOR ELDERLY AND DISABLED, for the definition of waiver patient.

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 (July 2017)

In this case, Petitioner had two bank accounts with [REDACTED]. The bank account where her Social Security benefit was deposited had \$ [REDACTED] in countable assets in it at the time of the redetermination. The bank account where her Veteran's Administration benefits were deposited had \$ [REDACTED] in it at the time of the redetermination. Issues were raised with regard to overpayments that Petitioner received from the Veteran's Administration that were required to be re-paid. The repayment of that VA benefit overissuance took some time and effort to achieve and had not occurred at the time of redetermination.

At the time of the redetermination, Petitioner had countable assets in the bank account where her Social Security benefit was deposited totaling \$ [REDACTED] because that is over the \$ [REDACTED] asset limit it was proper and correct for the Department to close Petitioner's MA-LTC case due to excess assets. BEM 400 Because Petitioner is found to be asset ineligible because she owned a bank account with monies totaling over \$ [REDACTED] (the account where her Social Security benefit was deposited), the issue raised with regard to the bank account with VA benefits in it will not be addressed. Even if the monies in the bank account where the VA benefits were deposited were deemed unavailable, Petitioner would have still been asset ineligible.

Petitioner's attorney raised issues at hearing with regard to some monies being withdrawn from both accounts to pay for Petitioner's expenses and if she had been aware that she needed to draw down the account where her social security benefit was deposited she may have done so. Department policy only looks at how much countable assets the recipient had at the time of the redetermination. At the time of redetermination, Petitioner was over the asset limit. Therefore, the closure was consistent with Department policy.

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 closed Petitioner's MA-LTC benefit due to excess assets.

DECISION AND ORDER

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

AM/md



Aaron McClintic

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 Respondent

[REDACTED]

Counsel for Respondent

[REDACTED]

DHHS

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]