



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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

Date Mailed: February 5, 2018
MAHS Docket No.: 17-015527
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 10, 2018, from Detroit, Michigan. The Petitioner was represented by [REDACTED] the Petitioner's duly appointed Guardian and Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by Rolondo Gomez, Hearing Coordinator.

ISSUE

Did the Department properly deny close the Petitioner Medicaid and Medicare Savings Program case 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. The Petitioner applied for MA on [REDACTED], 2017 and was received in place of annual redetermination for Medicaid and MA Savings Program review. Exhibit 1
2. On November 3, 2017 the Petitioner's Bank provided a letter indicating the balance in Petitioner account was \$3,872.48. Exhibit 2
3. On November 9, 2017 a Health Care Coverage Determination Notice was sent to Petitioner and her AHR closing the Petitioner's Medicaid and QMB effective December 1, 2017 due to being over the asset limit. Exhibit 3

4. The Department determined the Petitioner's assets based upon a one page letter from [REDACTED] dated November 3, 2017 that was not a bank statement for the month of November 2017. The letter also contained hand written notes indicating that other payments were made from the account in the amount of \$1,538 and check number 310 for \$424.50. Exhibit 2.
5. The Petitioner's AHR requested a timely hearing on [REDACTED] 2017 regarding the Department's denial of medical assistance for Petitioner due to excess assets.

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 denied Petitioner's MA application/redetermination filed on [REDACTED], 2017 due to Petitioner having excess assets. The Health Care Coverage Determination Notice issued November 9, 2017 denied both Medicaid and Medicare Savings Program benefits due to excess assets.

Department policy found in BEM 400 governs asset determinations.

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 (January 2018), p. 7.

For Medicare Savings Program the asset limit for January 2017 was \$7,390. BEM 400, p.8.

The letter provided by the bank indicated that as of the date of the letter, November 3, 2017, the Petitioner's account balance was \$3,872.48. Exhibit 2. Thus as can be seen, the asset limit for the Medicare Savings Program was not exceeded based upon the bank letter provided to the Department and thus it is determined that the Department improperly denied/closed the Petitioner MSP QMB program due to excess assets.

In this case the Department did not establish that it looked at the Petitioner's assets during the month being tested by requesting a bank statement, but instead relied on a one page statement from the bank with notes indicating there were other checks to be debited and which would have brought the asset amount in the account to less than the \$2,000 asset limit for SSI related MA for a group of one. BEM 400, p. 8.

Department policy allows the Department to find asset eligibility for MA if at any time during the month the asset limit is met. BEM 400 provides:

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. 7.

The Department did not provide any request for asset verification it sent to the Petitioner regarding assets at the hearing. Nor did it seek to determine if the asset limit was met on any day during the month. Thus the Department did not meet its burden to demonstrate that it properly verified information regarding assets for a Medical Assistance application/redetermination, and thus failed to establish that it complied with Department policy.

In addition, BAM 130 requires that the Petitioner be allowed to explain any discrepancy:

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, (April 2017), p. 9

No evidence was presented to establish that the Department made any effort to resolve the discrepancy appearing on the face of the November 3 2017 bank letter.

Given the evidence presented the Department did not meet its burden to establish that it complied with Department policy in BAM 130 when reviewing the verification of assets.

On December 18, 2017 the Petitioner's AHR signed a Hearing Request Withdrawal indicating the "DHS informed me to start the application in [REDACTED] county. Assets were too high only because of the move while final payment amount due the [REDACTED] [REDACTED] was being determined. The Hearing Request Withdrawal was not approved by the Michigan Administrative Hearing System prior to the hearing. The Petitioner's AHR appeared at the hearing prepared to proceed and a hearing was held.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Petitioner's Medicaid application and Medicare Savings Program Benefits for QMB.

DECISION AND ORDER

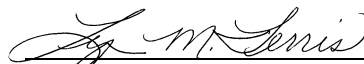
Accordingly, the Department's decision is

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. The Department shall reinstate/re-register the [REDACTED], 2017 application filed in lieu of a redetermination with respect to the MA application and Medicare Savings Program and reprocess the application/redetermination in accordance with Department policy.
2. The Department shall reinstate the Petitioner's MSP benefits if closed based upon excess assets in accordance with Department policy. .
3. The Department shall provide written notice to the **Petitioner's AHR** of its determination.

LF/cg



Lynn M. Ferris

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

Via Email:

MDHHS-Tuscola-Hearings
M. Best
EQAD
BSC2 – Hearing Decisions
MAHS

**Authorized Hearing Rep.
Via – First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]

**Petitioner
Via – First-Class Mail:**

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