



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: April 6, 2018
MAHS Docket No.: 18-001317
Agency No.: ██████████
Petitioner: ██████████

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 April 5, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by ██████████, Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's Medical Assistance (MA) application 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 December 19, 2017.
2. At the time of the MA application the Petitioner was disabled and received RSDI in the amount of ██████████ monthly from the ██████████). Exhibit C.
3. The Petitioner also receives monthly disability income from ██████████ in the amount of ██████████ from a former employer. Exhibit E.
4. The Petitioner received a lump sum payment from SSA for RSDI in the amount of ██████████ on or about October 5, 2017 when he could not work.

5. The Department issued a Health Care Coverage Determination Notice on January 4, 2018 denying the Petitioner application for Medicaid due to excess assets. Exhibit G.
6. The Petitioner requested a timely hearing on January 26, 2018 protesting the Department's denial of the application 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 the Petitioner's MA application he filed on December 19, 2017 due to his assets exceeding the MA asset limit of [REDACTED]. In determining the total countable asset amount the Department included \$ [REDACTED] lump sum retro payment Petitioner received when determining whether the Petitioner's assets exceeded the asset limit found in BEM 400. In addition, the Department did not deduct the Petitioner's income received monthly in the account for [REDACTED] for social security and [REDACTED] for Cigma disability payment totaling [REDACTED]. At the hearing the Department pointed out that BEM 400 allows for a 9-month exclusion for lump sum payments and agreed that it was error to count the [REDACTED] lump sum SSA payment for back RSDI as an asset at the time of the application. Exhibit F.

An applicant for MA must have their assets considered in determining eligibility.

Assets mean:

- Cash (see Cash in this item).
- Personal property. **Personal property** is any item subject to ownership that is not real property (examples: currency, savings accounts and vehicles).

- Real property. **Real property** is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. BEM 400 (January 2018), pp. 1-2.

In this case the assets under review were cash assets contained in the Petitioner's bank accounts. 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 correctly determined that the Petitioner is an asset group of one person and the asset limit for SSI MA is \$2,000. BEM 400, p.8.

The Petitioner received a lump sum retroactive payment of RSDI in the amount of \$19094. For SSI related MA only, the Department must exclude the RSDI benefits for 9 calendar months beginning the month after payment is received. BEMM 400 also advises how to track the amount.

Exclude retroactive RSDI and SSA-issued SSI benefits for nine calendar months beginning the month after payment is received. Do **not** exclude purchases made with such funds including CDs and other time deposits.

This exclusion applies only to any unspent portion of the retroactive payment from RSDI or SSI. Once the money from the retroactive payment has been spent, this exclusion does not apply to the items purchased with the money, even if the nine-month period has not expired.

The money may be commingled with other funds but, if this is done in such a fashion that the retroactive amount can no longer be separately identified, that amount will count toward the resource limit.

Use the following to separate countable and excluded funds that are commingled:

- Assume that countable funds are withdrawn first, leaving as much of the excluded funds as possible.
- Excluded funds withdrawn are **not** excluded if redeposited. The excluded amount can be increased only by deposits of subsequently received excluded payments.
- Count any interest paid to the account.

Based upon the evidence presented it is determined that the Department did not properly calculate the Petitioner's assets when it included the Petitioner's funds received as a lump sum RSDI payment and must redetermine the asset eligibility of Petitioner and asset amount based upon the above policy regarding the RSDI lump sum payment. In doing so the Department must also determine the correct start date to determine the correct expiration date for the exclusion of the funds from being counted as 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 denied the Petitioner's MA application due to excess assets.

DECISION AND ORDER

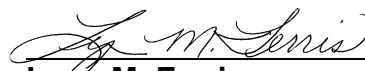
Accordingly, the Department's decision is

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 re-register the Petitioner MA application dated December 19, 2017 and reprocess the application.
2. The Department shall provide the Petitioner written notice of its determination.

LF/tm



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

DHHS

[REDACTED]
[REDACTED]
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