



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: August 30, 2018
MAHS Docket No.: 18-005691
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, a telephone hearing was held on August 1, 2018, from Lansing, Michigan. Petitioner was represented by his authorized hearing representatives, [REDACTED], and [REDACTED]. The Department of Health and Human Services was represented by Rene Colvin, and Nikia Williams.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Medical Assistance (MA) in March and April of 2018?

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], 2018, the Department received Petitioner's Application for Health Care Coverage (DHS-4574) and request for retroactive benefits. Exhibit A, pp 11-18.
2. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$[REDACTED] Exhibit A, p 14.
3. On April 17, 2018, the Department received verification of Petitioner's countable cash assets for March and April of 2018. Exhibit A, pp 19-26.
4. On May 18, 2018, the Department notified Petitioner that he was not eligible for Medical Assistance (MA) benefits effective March 1, 2018. Exhibit A, pp 6-10.

5. On May 18, 2018, the Department notified Petitioner that he was not eligible for the Medicare Savings Program (MSP). Exhibit A, pp 6-10.
6. On June 4, 2018, the Department received Petitioner's request for a hearing protesting the denial of his application for Medical Assistance (MA). Exhibit A, pp 3-4.

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.

Assets means cash, any other personal property and real property. Real property is land and objects affixed to the land such as buildings, trees and fences. Condominiums are real property. Personal property is any item subject to ownership that is not real property. Countable assets cannot exceed the applicable asset limit. An asset is countable if it meets the availability tests and is not excluded. Available means that someone in the asset group has the legal right to use or dispose of the asset. Department of Human Services Bridges Eligibility Manual (BEM) 400 (January 1, 2018), pp 1-7.

On [REDACTED], 2018, the Department received Petitioner's application for MA benefits and he was subject to the \$2,000 asset limit for eligibility. BAM 400. Petitioner reported cash assets available to him. The Department determined that the countable assets held by Petitioner, excluding cash assets fitting the definition of current income, exceeded the limit for eligibility to receive MA benefits in March and April of 2018.

Petitioner's representative did not dispute that Petitioner had access to countable assets exceeding \$2,000. The representative testified that the Department failed to provide notice of a Tentative Patient Pay Amount as required by BEM 546 before the final determination of the Patient Pay Amount was completed. Petitioner's representative testified that collection of a patient payment amount could not be made before a tentative or final determination of the patient pay amount.

However, the Medicaid Provider Manual, Section 12.1 Patient Pay Amount, indicates that nursing facilities are encouraged to determine what a potential beneficiary's patient pay amount will be and collect that patient pay amount prior to receiving the DHS-3227.


Despite the Department's failure to send Petitioner a DHS-3227 in a timely manner, Petitioner was ineligible for MA in March and April of 2018 based on countable assets. The failure to issue a timely DHS-3227 does not cause Petitioner to become eligible for MA despite the fact that if the patient pay amount had been collected, his countable assets would have been reduced sooner. Further, the Department was not required to advise Petitioner on the management of his assets in order to become eligible for MA benefits. Department of Health and Human Services Bridges Administrative Manual (BAM) 105 (January 1, 2018), p 14.

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 denied Medical Assistance (MA) benefits in March and April of 2018.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/hb



Kevin Scully
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) 763-0155; 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

Christine Steen
3040 West Grand Blvd
Suite 4-250
Detroit, MI 48202

Wayne County (District 82), DHHS

BSC4 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Petitioner

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██████████, MI ██████████

Authorized Hearing Rep.

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