



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

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

Date Mailed: November 2, 2018  
MAHS Docket No.: 18-009671  
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 November 1, 2018, from Lansing, Michigan. Petitioner was represented by her daughter [REDACTED]. The Department was represented by Erik Lewis and Corlea Gibson-Turner.

**ISSUE**

Did the Department of Health and Human Services (Department) properly close Petitioner's Medical Assistance (MA) benefits?

**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 August 3, 2018, Petitioner provided the Department with information to redetermine her eligibility for ongoing Medical Assistance (MA).
2. On August 3, 2018, the Department notified Petitioner that she was approved for Medical Assistance (MA) effective September 1, 2018. Exhibit A, p 4.
3. On August 3, 2018, the Department determined that Petitioner had not verified all of her countable assets. Exhibit A, pp 7-8.
4. On August 7, 2018, the Department notified Petitioner that she was ineligible for Medical Assistance (MA) effective September 1, 2018. Exhibit A, p 5.

5. On September 19, 2018, the Department received Petitioner's request for a hearing protesting the closure of her Medical Assistance (MA) benefits. Exhibit A, pp 2-3.

### **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.

Jointly owned assets are assets that have more than one owner. For jointly owned cash assets, the Department will count the entire amount unless the person claims and verified a different ownership. Then, each owner's share is the amount they own. BEM 400, pp 12-13.

Petitioner was an ongoing MA recipient and on August 3, 2018, the Department determined that she remained eligible for ongoing benefits. Then the Department discovered unverified assets it attributed to Petitioner. Based on that finding, the Department closed Petitioner's MA benefits.

The Department will utilize an asset verification program to electronically detect unreported assets belonging to applicants and beneficiaries. BEM 400, p 1. The hearing record does not establish whether Petitioner has countable assets because the Department failed to give her the opportunity to verify the availability of those assets.

This Administrative Law Judge finds no basis in policy for closing MA benefits based solely on the results of the asset verification program where the person claims different ownership.

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 closed Petitioner's Medical Assistance (MA) based on countable 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:

Provide Petitioner with a ten-day period to verify the cash assets identified by the Department's asset detection program and initiate a determination of Petitioner's eligibility for Medical Assistance (MA) as of September 1, 2018.

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**

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

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED], MI [REDACTED]