



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: September 7, 2018  
MAHS Docket No.: 18-007938  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 6, 2018, from Lansing, Michigan. Petitioner, [REDACTED] appeared with her daughter, [REDACTED]. Petitioner did not have any other witnesses. Lead Worker, Kimberly Reed, appeared for the Department. The Department did not have any other witnesses.

One exhibit was admitted into evidence during the hearing. A 21-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUE**

Did the Department properly deny Petitioner's application for health care coverage?

**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, Petitioner applied for health care coverage from the Department.
2. On July 5, 2018, Petitioner provided verification of her checking account, savings account, and individual retirement account (IRA) balances. Petitioner's checking account had a balance of \$504.42, her savings account had a balance of \$1,631.63, and her IRA had a balance of \$17,736.71.
3. Petitioner receives a \$214.00 distribution from her IRA each month.

4. On July 20, 2018, the Department issued a Health Care Coverage Determination Notice to Petitioner to notify her that the Department found her ineligible for health care coverage. The Department found Petitioner ineligible for health care coverage because the Department found that Petitioner's countable assets exceeded the Department's limit.
5. On August 2, 2018, Petitioner filed a hearing request to dispute the Department's decision to find her ineligible for health care coverage.

### **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.

Health care coverage is available through the Department provided that the eligibility requirements are met. One of the eligibility requirements is the Department's asset limit. Countable assets must not exceed the Department's limit. BEM 400 (October 1, 2018), p. 2. An asset is countable if it is available and it is not excluded. BEM 400, p. 2. The asset limit for health care coverage under the Medicare Savings Program (MSP) is \$7,560.00 for a group of one. BEM 400, p. 8. The asset limit for health care coverage under all other SSI-related programs is \$2,000.00 for a group of one. BEM 400, p. 8.

The issue in this case is whether Petitioner's IRA is countable. It must be considered a countable asset if it is both available and not excluded. Available means that someone in the asset group has the legal right to use and dispose of the asset. BEM 400, p. 10. Petitioner's IRA must be considered available because Petitioner had the right to draw on the balance of her IRA. There is no specific exclusion for an IRA balance, so it is also not excluded. Thus, Petitioner's IRA must be considered countable because it is both available and not excluded. The value of Petitioner's IRA that is countable is the amount of money someone in the asset group can currently withdraw from the plan. BEM 400, p. 27. Petitioner did not present any evidence to establish that she could not withdraw the entire balance, so ~~the~~ I must presume that Petitioner was able to withdraw the entire balance. Thus, the entire \$17,736.71 balance of Petitioner's IRA must be considered a countable asset.

Since Petitioner's IRA balance is considered a countable asset and since the balance exceeds the asset limit for health care coverage under both MSP and SSI-related programs, the Department properly found Petitioner ineligible for health care coverage.

**DECISION AND ORDER**

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 act in accordance with its policies and the applicable law when it issued its July 20, 2018, Health Care Coverage Determination which denied Petitioner's application for health care coverage.

IT IS ORDERED the Department's decision is AFFIRMED.

JK/nr



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Jeffrey Kemm  
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**

Kimberly Reed  
609 North State Street  
PO Box 278  
Stanton, MI  
48888

Montcalm County DHHS- via electronic  
mail

BSC3- via electronic mail

D. Smith- via electronic mail

[EQAD- via electronic mail](#)

**Petitioner**

[REDACTED]  
MI