



Rhode Island Executive Office of Health and Human Services
Appeals Office, 57 Howard Ave., LP Building, 2nd floor, Cranston, RI 02920
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Date: July 8, 2015

Docket #: 15-1021

Hearing Date: June 22, 2015



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency regulation(s) were the matters before the hearing:

**EXECUTICE OFFICE OF HEALTH AND HUMAN SERVICES (EOHHS)
MEDICAID CODE OF ADMINISTRATIVE RULES (MCAR)
SECTION: 0354.05 RESOURCE LIMITS**

The facts of your case, the Agency regulation(s) and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the Appellant), your Attorney, George M. Prescott, Esq., Jacqueline Durand and Lorraine Turcotte Long Term Care Social Workers for the Agency.

Present at the hearing were: your Attorney, George M. Prescott, Esq., Jacqueline Durand and Lorraine Turcotte Long Term Care Social Workers for the Agency.

ISSUE: Is the Appellant ineligible for Medical Assistance due to being over the \$4,000.00 resource limit for the month of February 2015

EOHHS RULES AND REGULATIONS:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Executive Office of Health and Human Services Medicaid Code of Administrative Rules (MCAR).

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Executive Office of Health and Human Services Medicaid Code of Administrative Rules (MCAR).

DISCUSSION OF THE EVIDENCE:

The HealthSource RI Representatives testified:

- On February 5, 2015 a Long Term Care (LTC) application for Medical Assistance (MA) was received by the Agency.
- Upon review of the Appellant's application and the bank records provided, the Agency determined that the Appellant had resources in the amount of \$45,511.59 as of February 1, 2015, which is more than the SSI related standard resource limit of \$4,000.00, per DHS Code § 0354.05. The Agency found that the Appellant was \$41,511.59 in excess of the standard and on April 16, 2015 issued the Appellant a denial letter stating such.
The Appellant's Attorney submitted a Request for Hearing form dated May 4, 2015 indicating that the Agency's decision was erroneous, contrary to law and adversely affected the substantial rights of the applicant/ Appellant.
- The Agency reply to the Appellant's Request for Hearing states that the case was denied for being over the allowed \$4,000.00 standard limit; as of 2-1-2015, the Appellant had \$45,511.59 which is in excess of the allowed \$4,000.00 resource limit per policy § 0354.05.
- The Agency submitted the denial notice that issued to the Appellant on April 16, 2015 and was labeled Agency I.
- The Agency submitted a copy of policy § 0354.05 - Resource Limits, which shows in part that the resource limit for an individual is \$4,000.00; this was labeled Agency II.
- The Appellant is not denied due to being over income, she was denied only for being over resource limit.

The Appellant testified:

- The Appellant's attorney agrees with the agency that the Appellant is over resource for LTC for the month of February 2015 and will reapply shortly.
- The Appellant's attorney and the Agency both agree that this is not a case where the Appellant is denied due to being over income.

FINDINGS OF FACT:

- The Appellant applied for LTC for MA.
- The Agency reviewed the Appellant's application for LTC for MA and determined that after reviewing the Appellant's bank records, determined that she was over resources for LTC. As of February 1, 2015 the Appellant had \$45,511.59 in

resources and that amount exceeds the resource limit of \$4,000.00 by \$41,511.59.

- Due to being over resources, the Agency issued a denial notice on April 16, 2015 stating the reason and DHS Policy § 0354.05.
- The Appellant and her attorney filed a timely appeal on May 4, 2015.
- The Agency submitted into evidence a copy of the denial notice from April 16, 2015, which was labeled exhibit I and a copy of Policy § 0354.05 – Resource Limits, which was labeled exhibit II.
- The Appellant's attorney agrees with the agency that the Appellant is over resource for LTC for the month of February 2015 and will reapply shortly.
- The Appellant's attorney and the Agency both agree that this is not a case where the Appellant is denied due to being over income.

There was a brief pre- conference Hearing held just prior to this Hearing and was attended by just George M. Prescott, Esq., Jacqueline Durand and Lorraine Turcotte Long Term Care Social Workers for the Agency.

CONCLUSION:

The issue to be decided is whether the Appellant was over the resource limit of \$4,000.00 as of February 1, 2015.

The Appellant submitted an application for Long Term Care for Medical Assistance on February 5, 2015. As part of the application, the Appellant submitted bank records for the agency's review. After review of the complete application by the agency, it determined that the Appellant had \$45,511.59 in resources at the time of application. Due to the uncontested fact that the Appellant was \$41,511.59 over the SSI related standard resource limit of \$4,000.00 in accordance with policy § 0354.05 (Resource Limits), the Agency issued a denial notice to the Appellant on April 16, 2015

Policy § 0354.05 allows individual applicants to that are eligible for LTC to have up to \$4,000.00 in resources, couples are allowed to have up to \$6,000.00 in resources.

Prior to the Appeals Hearing beginning, that was a pre-conference hearing that was attended by just the Appellant's attorney George M. Prescott, Esq., Jacqueline Durand and Lorraine Turcotte Long Term Care Social Workers for the Agency.

As result the pre-conference hearing both the Appellant's attorney and the Agency reached an agreement that the Appellant was over resource limits permitted by policy but that the Appellant in not over income for the LTC program for Medical Assistance.

In conclusion, the Appellant applied for LTC on February 5, 2015, the Agency reviewed the Appellant's application for LCT and on April 16, 2015, the Agency issued a denial

notice to the Appellant due to the Appellant having resources in the amount of \$45,511.59, which is greater than the resource limit of \$4,000.00 per policy § 0354.05.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the Appellant is not eligible for LTC for February 2015. The Appellant's request for relief is therefore denied.

A handwritten signature in cursive script that reads "Thomas Brennan". The signature is written in black ink and is positioned above the typed name.

Appeals Officer

APPENDIX

**EXECUTICE OFFICE OF HEALTH AND HUMAN SERVICES (EOHHS)
 MEDICAID CODE OF ADMINISTRATIVE RULES (MCAR)**

0354.05 RESOURCE LIMITS

REV:01/2002

Each determination of eligibility (new, reopening or redetermination) requires a review of resources, which includes sending at least one bank statement (AP-91). Resources are also reviewed at the time of a reported change, or when information is received which indicates a change has occurred, or that unreported resources may exist (Income Eligibility Verification System match, etc.). Resources must be verified by a review of documents related to the resource, with copies of the documentation kept for the case file.

The Resource limits for individuals and couples are: CATEGORICALLY

NEEDY RESOURCE LIMITS*

Resource	Individuals	Couples
Real Property and Personal Property	\$2,000	\$3,000 Property
Essential for Self-Support	Excluded	
Burial Spaces	Excluded	
Life Insurance	\$1,500	\$1,500(each)
Burial Set-Aside	Up to \$1,500 Individual & Spouse (See Limits in Section 0356.45).	
Home and Adjoining Land	Excluded as a resource if living in it.	
Automobile	One is potentially excludable based on use. Otherwise, the FAIR MARKET VALUE up to a threshold of \$4,500 is excluded. (Section 0356.30)	
RSDI Retroactive Payments	Excluded for up to six (6) months under provisions in Section 0356.60.	

* Note: The Low Income Aged and Disabled Coverage Group (Section 0370.70), entitled to the Categorically Needy scope of services, is subject to the Medically Needy Resource Limit.

MEDICALLY NEEDY RESOURCE LIMITS - ALL GROUPS

RESOURCE	INDIVIDUAL	COUPLE
Basic Limit	\$4,000	\$6,000
Life Insurance	\$4,000 Face Value for each individual. If Face Value(s) exceeds this threshold, evaluate as per Section 0356.20.	
Burial Set-Aside**	Up to \$1,500 each individual (See limits in Section 0356.45).	
Automobile	One is potentially excludable based on use. Otherwise, the FAIR MARKET VALUE up to a threshold of \$4,500 is excluded. (Section 0356.30)	
RSDI Retroactive Payments	Excluded for up to six (6) months under provisions in Section 0356.60.	
Tangible Personal Property (personal valuables, antiques, jewelry, pleasure boats, etc.)	\$5,000 threshold limit per household.	

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

This hearing decision constitutes a final order pursuant to RI General Laws §42-35-12. An appellant may seek judicial review to the extent it is available by law. 45 CFR 155.520 grants appellants who disagree with the decision of a State Exchange appeals entity, the ability to appeal to the U.S. Department of Health And Human Services (HHS) appeals entity within thirty (30) days of the mailing date of this decision. The act of filing an appeal with HHS does not prevent or delay the enforcement of this final order.

You can file an appeal with HHS at <https://www.healthcare.gov/downloads/marketplace-appeal-request-form-a.pdf> or by calling 1-800-318-2596.