

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE - LP Bldg.
57 Howard Avenue
Cranston, RI 02920
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TDD # (401) 462-3363**

Date: July 24, 2014

Docket # 14-468
Hearing Date: April 30, 2014

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 policy reference(s) were the matters before the hearing:

**THE MEDICAID POLICY MANUAL: MEDICAL ASSISTANCE
SECTION: 0380.45 Resource Reduction**

The facts of your case, the Agency policy, 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 in C/o your POA), and Agency representatives: David Hankins, Ted Dobek, Deb Castellano, Tom Conlon, and the Policy Unit.

Present at the hearing were: your POA, the R.I. LTC Osbudsman, and DHS representatives David Hankins and Ted Dobek. EOHHS Appeals Officer Karen Walsh was also present for training purposes.

ISSUE: Is the appellant ineligible for Rhode Island Medical Assistance (MA) because her countable resources at the time of application exceeded the program's basic resource limit and she failed to reduce her resources to within the \$4,000.00 resource limit as allowed per policy?

POLICIES:

Please see the attached APPENDIX for pertinent excerpts from the MEDICAID Policy Manual.

APPEAL RIGHTS:

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

DISCUSSION OF THE EVIDENCE:**The Agency representatives testified:**

- The appellant was denied Medical Assistance (MA) for the month of November 2013 due to excess resources.
- The appellant did not sufficiently reduce resources to establish MA eligibility for November 2013.
- The Agency did consider a September Nursing Home payment of \$1,750.00 and an October Nursing Home payment of \$1,488.57. These two payments brought the overage down to \$6,180.08, which is still over the resource limit.
- The appellant was subsequently discharged from the NH and applied for the DEA assisted living waiver, which was approved in January 2014. By approving MA for January 2014, the Agency agrees that the appellant's resources were within the \$4,000.00 resource limit as of January 1, 2014.

The appellant's POA, with the assistance of the R.I. Long Term Care Osbudsman, testified:

- The appellant broke an arm and a hip and had to go into a Nursing Home for skilled rehabilitation.
- The appellant was in a Nursing Home from September 6, 2013 to December 18, 2013.
- She needs LTC Medicaid beginning with the month of November 2013.
- Despite having Medicare coverage for some of her NH stay, she still incurred copay costs. There was also a period of time, from November 1, 2013 through November 13th or 14th 2013, when she was not receiving Medicare-covered skilled care.
- The appellant had enough medical expenses to reduce her excess resources to within the resource limits to obtain MA eligibility in November 2013.
- There are other medical bills/payments other than the NH bills/payment that the Agency did not consider.
- In December 2013, the appellant needed a wheelchair with a special braking

system and that was put on a charge card because she did not have a debit card.

FINDINGS OF FACT:

- The appellant submitted an application for R.I. Medical Assistance (MA) in November 2013.
- The appellant was in a Nursing Facility (NF) at the time of her MA application and is requesting MA payment for NF services received in November 2013.
- The Agency sent the appellant, in C/o her POA, a notice dated February 19, 2014 informing her that her application for R.I. Medical Assistance (MA) had been denied for the month of November 2013 because her resources in the amount of \$13,418.68 exceeded the program's standard resource limit of \$4,000.00. The February 19, 2014 denial notice also informed the appellant that she might be able to establish eligibility on the basis of a Resource Reduction.
- The appellant's Power of Attorney (POA) filed a timely request for hearing received by the Agency on February 28, 2014.
- The Administrative Hearing was convened on April 30, 2014.
- The record of hearing was held open through the close of business on June 19, 2014.
- Additional evidence was submitted/received during the held open period and was made part of the record of hearing.
- At the time of application, the appellant had total countable resources in the amount of \$13,418.68.
- The appellant paid allowable medical expenses totaling \$3,714.17, thereby reducing her countable resources to \$9,704.51.
- The appellant has incurred a November 2013 NF bill for thirteen days of institutional care not covered by Medicare.
- The NF's private per diem rate is \$294.00.

CONCLUSION:

The issue to be decided is whether the appellant is ineligible for Rhode Island Medical

Assistance (MA) because her countable resources at the time of application exceeded the program's basic resource limit and she failed to reduce her resources to within the \$4000.00 resource limit as allowed per policy.

There is no dispute that at the time of her November 2013 MA application, the appellant had total countable resources of \$13,418.68. The Agency issued a notice dated February 19, 2014, informing the appellant that she was ineligible for MA due to excess resources, but also informed her that she might be able to establish MA eligibility by means of a resource reduction and explained the process for doing so. The Agency initially determined that the appellant had failed to sufficiently reduce her resources after considering only her September and October Nursing Facility (NF) bills. Additional medical expenses were submitted for consideration during the appeals process and upon review the Agency concluded that in addition to the \$1,750.00 September NF bill and the \$1,488.57 October NF bill, a \$121.30 ambulance bill and a \$32.00 Lifespan bill would also be considered. The Agency argues though that the total allowable medical expenses of \$3,391.87 are still insufficient to reduce the appellant's resources to the \$4,000.00 resource limit required for MA eligibility to exist.

Since the appellant was residing in a Nursing Facility at the time of her MA application, the Medicaid Policy Manual sections which set forth the policies and procedures for determining MA eligibility for institutionalized individuals must be reviewed and utilized. Per MA policy sections 0380.45 through 0380.45.10 relative to resource reductions, when an institutionalized MA applicant is found ineligible due to countable excess resources, MA eligibility may still be established if the individual incurs or has incurred allowable medical bills or expenses that equal or exceed the excess resources and the applicant reduces the excess resources to within the MA resource limit by paying the allowable medical bills. Upon doing so, MA eligibility begins on the date that the incurred allowable medical expenses equal or exceed the excess resources, but never earlier than the first day of the month of application and only upon verification that the excess resources were actually spent on the allowable expenses. Per MA policy, outstanding bills used for a resource reduction cannot be incurred earlier than the first day of the third month prior to the date of application and policy further stipulates that only certain medical expenses can be used for a resource reduction, specifically those medical expenses allowed under section 0390, Flexible Test of Income policy. Based on such policy, in addition to the medical expenses previously incurred but paid after November 1, 2014, which the Agency agreed to and did consider, the appellant's projected medical expenses for the month of November, including the projected cost of institutional care for the month of November, can also be considered when determining if MA eligibility exists for the month, or a portion of the month, of November. In essence, if the appellant's projected medical expenses for the month of November 2013 exceeded the amount of her excess resource, she would have potential MA eligibility as of the date in November that those expenses equaled or exceeded the amount of her excess resources.

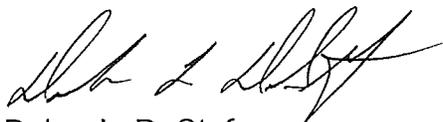
A full review of the evidence submitted finds that all allowable medical expenses incurred prior to November 1, 2013 and paid after that date, which totaled \$3,391.87, were considered by the Agency. Per policy, medical expenses incurred in December

and/or January cannot be utilized to determine eligibility for November and the Agency correctly did not consider those submitted expenses. The Agency failed to consider the appellant's projected medical expenses for November as allowed per MA policy. Per MA policy, the projected cost of institutional services is defined as the number of days of institutional care, not covered by Medicare, multiplied by the private per diem rate. Additional evidence submitted post hearing establishes that the appellant received thirteen days of care not covered by Medicare at a private per diem rate of \$294.00, for a total projected November NF bill of \$3,822.00. The appellant also incurred and subsequently paid a November pharmacy bill of \$322.30.

In summary, the appellant's countable resources as of November 2013, the date of her MA application, was \$13,418.68. The appellant has verified payment of \$3,714.17 in allowable medical expenses, including her November pharmacy bill, thereby reducing her countable resources to \$9,704.51. The appellant's projected November NF bill of \$3,822.00, while still unpaid, is insufficient to reduce the appellant's remaining countable resources to within the \$4,000.00 resource limit in the month of November 2013 and the record lacks evidence of any other projected November medical expenses that could sufficiently reduce the appellant's resources in the month of November.

In conclusion, the appellant has failed to reduce her resources to within the \$4,000.00 resource limit as allowed per MA policy and the record fails to establish that she has incurred allowable medical bills/expenses that equal or exceed her excess resources, which if subsequently paid would reduce her resources to within the MA resource limit.

After a careful review of the Agency's policies, as well as the testimony and evidence submitted, this Appeals Officer finds that the appellant is ineligible for Medical Assistance (MA) as of November 1, 2013 because her countable resources exceeded the standard resource limit of \$4,000.00. The appellant is not eligible for subsequent MA eligibility in November 2013 because she has not and cannot reduce her excess resources to within the resource limit in the manner allowed per MA policy. The appellant's request for relief is thereby denied.



Debra L. DeStefano
Appeals Officer