

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF HUMAN SERVICES
APPEALS OFFICE
57 Howard Avenue
Cranston, Rhode Island 02920
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TDD# (401) 462-3363**

Docket # 14-758
Hearing Date: September 3, 2014

Date: September 19, 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 DHS PROVIDER MANUAL: Medical Assistance
SECTION: 0354.05 RESOURCE LIMITS
0354.20 RESOURCE CONVERSION OR SALE**

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) and the Supervisor for Medical Assistance/Agency representative and the Policy Unit.

Present at the hearing were: You (the Appellant), the Appellant's spouse, Patricia Logan, consultant social caseworker from Case Management Strategies, LLC on behalf of the Appellant, Kristen Grasso Supervisor and Agency representative for the Medical Assistance program .

ISSUE: Was the Appellant over resources at the time of the filing his application for Medical Assistance?

DHS POLICIES:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy and Provider Manuals.

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 had filed for Medical Assistance in October of 2013.
- On April 3, 2014, a denial of Medical Assistance notice issued to the Appellant informing him that due to having resources in the amount of \$11,248.02 which is more than the SSI related standard resources limit of \$6,000.00 he was not eligible for Medical Assistance, per DHS Policy § 0354.05. The Appellant is \$5,248.02 in excess of the standard.
- On May 1, 2014, the agency received the Appellant's Appeal of the denial notice, claiming that there was a discrepancy with the amount of resource value.
- The Appellant has four automobiles: a 2011 Dodge Ram truck valued at \$27,125.00; a 2001 Harley Davidson motorcycle valued at \$8,585.00; a 2000 Mazda Protégé valued at \$1,275.00; and 2005 Nissan Pathfinder valued at \$6,300.00. The value was established by using the National Automobile Dealers Association (NADA) trade-in value.
- The Appellant also has four bank accounts: a Coventry Credit Union checking account with a balance of \$2,047.04; a Coventry Credit Union checking account with a balance of \$5.85; a Citizens Bank checking account with a balance of \$6.47; and a savings account with a value of \$605.59.
- There is also an IRA totaling \$28,294.11 but was not counted at this time and records showing that \$1,000.00 was being withdrawn per month.
- There is income from the Appellant's wife's business. For the month of October 2013, with sales in the amount of \$2,266.38 and expenses of \$488.92 for supplies, \$475.00 for rent and \$260.81 for utilities.
- The Appellant had submitted a letter that he had received TDI benefit of \$666.00 per week, per a benefit computation statement dated October 22, 2013.
- The agency based their decision on information and figures that was provided by the Appellant.
- The agency is not looking at the Appellant's income issue at this time, only the over resources of the Appellant

The Appellant and his representative from Case Management Strategies testified:

- The Appellant had suffered a catastrophic injury and with the assistance of Kent Hospital and Rhode Island Hospital, filed for Medical Assistance.

- The Appellant completed the DHS application without the assistance of a social case worker and had mis-reported and indicated resource information that he did not actually have.
- Ms. Logan, having initially reviewed the Appellant's application, knew that he was resource heavy, to the point that she had reached out to RI Legal Services for advice. Legal Services agreed that there was an issue, but indicating that Appellant was income heavy due to the TDI.
- Upon the suggestion of Ms. Logan, the Appellant traded in some of the vehicles and now only has two. The Appellant traded in the 2005 Nissan Pathfinder and the 2011 Dodge Ram truck for \$9,533.72 combined. Also, the trade in was made at a dealership and a 2014 KIA Sorento is now being leased. The Appellant stated that he had three more years of payments for a loan on the Dodge Ram, which is why he received so little for it. The 2001 Harley Davidson motorcycle had been scrapped over two years ago but the Appellant had failed to turn in the license plate, the plates have since been turned in.
- Ms. Logan states that the agency did not factor in the salaries of the Appellant's spouse's employees for her business as an expense and should reduce the sales figure for the business.
- The TDI payments were only lasted for two months.
- The IRA statement indicating that the Appellant was withdrawing \$1,000.00 per month is incorrect. The Appellant was able to provide a letter, dated July 31, 2014 from Coventry Credit Union, stating that the Appellant was taking only \$100.00 per month from his retirement account (IRA).

FINDINGS OF FACT:

- The Appellant had filed for Medical Assistance in October of 2013 after the Appellant had suffered a catastrophic injury and with the assistance of Kent Hospital and Rhode Island Hospital, filed for Medical Assistance.
- On April 3, 2014, a denial of Medical Assistance notice issued to the Appellant informing him that due to having resources in the amount of \$11,248.02 which is more than the SSI related standard resources limit of \$6,000.00 he was not eligible for Medical Assistance, per DHS Policy § 0354.05. The Appellant is \$5,248.02 in excess of the standard.
- On May 1, 2014, the agency received the Appellant's Appeal of the denial notice, claiming that there was a discrepancy with the amount of resource value.
- The agency is not looking at the Appellant's income issue but only the over resources of the Appellant.
- The Appellant has four automobiles: a 2011 Dodge Ram truck valued at \$27,125.00; a 2001 Harley Davidson motorcycle valued at \$8,585.00; a 2000 Mazda Protégé valued at \$1,275.00; and 2005 Nissan Pathfinder valued at \$6,300.00. The value was established by using the National Automobile Dealers Association (NADA) trade-in value.
- The Appellant also has four bank accounts: another Coventry Credit Union checking account with a balance of \$2,047.04; a Coventry Credit Union checking account with a balance of \$5.85; a Citizens Bank checking account with a balance of \$6.47; and a savings account with a value of \$605.59.

- There is also an IRA totaling \$28,294.11 but was not counted at this time and records showing that \$1,000.00 was being withdrawn per month.
- The statement indicating that the Appellant was withdrawing \$1,000.00 per month is incorrect. The Appellant was able to provide a letter, dated July 31, 2014 from Coventry Credit Union, stating that the Appellant was taking only \$100.00 per month from his retirement account (IRA).
- There is income from the Appellant's wife's business. For the month of October 2013, with sales in the amount of \$2,266.38 and expenses of \$488.92 for supplies, \$475.00 for rent and \$260.81 for utilities.
- The Appellant's wife's bookkeeper for her business did not include the listing of the pays of employees as part of the business expenses that had been submitted.
- The Appellant had submitted a letter that he had received TDI benefit of \$666.00 per week, per a benefit computation statement dated October 22, 2013.
- The TDI payments were only lasted for two months.
- The agency based their decision on information and figures that was provided by the Appellant.
- There is some inaccurate reporting of information; Appellant reported that he owned a motorcycle but actually scrapped it two years ago and didn't turn in the plates until after the application had been filed; the Appellant withdraws \$1,000.00 per month from his IRA but actually it's only \$100.00 per month; he reported owning four automobiles but currently only owns two; and the Appellant's wife's business expenses do not include the salaries of her employees.

CONCLUSION:

The issue to be decided is whether the Appellant was over resources at the time of filing his application for Medical Assistance.

After suffering a catastrophic injury in which the Appellant accidentally amputated his leg, he filed an application for Medical Assistance in October of 2013. After reviewing the application and the supporting documents that the Appellant submitted, the agency issued a denial notice, dated April 3, 2014, to the Appellant. The agency's reasoning for denying the Appellant's application was due to the Appellant having excess resources. The Appellant had listed in his application resources in the amount of \$11,248.02, which is more than the SSI related standard resource limit of \$6,000.00. (DHS Policy § 0354.05)

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 NEEDED 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 Needed scope of services, is subject to the Medically Needed Resource Limit.

MEDICALLY NEEDED 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 \$5,000 threshold limit per household. Property (personal valuables, antiques, jewelry, pleasure boats, etc.)

The Appellant was found to be \$5,248.02 in excess of the standard, therefore he was not found eligible. Although the agency was led to believe that the Appellant was receiving \$1,000.00 per month from his IRA, the agency had considered it an income and not a resource. (It was brought to the attention of the agency while at Hearing that the form indicating that there had been \$1,000.00 per month withdrawals from the Appellant's IRA was incorrect, the Appellant was actually only withdrawing \$100.00 per month.) Furthermore, the denial of benefits was strictly due to excess resources and the issue causing the Appellant to be over resource was the automobiles.

As policy allows, one automobile was not included in the calculation of the resources, the most expensive, the 2011 Dodge Ram truck which had a rough trade-in value of \$27,125.00. At the time of application, the Appellant listed on his application that he also owned a 2005 Nissan Pathfinder (with a rough trade-in value of \$6,800 and later adjusted down at Hearing to \$6,300.00); a 2000 Mazda Protégé (with a rough trade-in value of \$1,450.00 and later adjusted down at Hearing to \$1,275.00); and a 2001 Harley-Davidson (with an average retail of \$8,585.00). Once the resource value for the 2005 Nissan Pathfinder, 2000 Mazda Protégé and the Harley-Davidson motorcycle were properly calculated at the time that the application, their resource value had been determined to be greater than the \$6,000.00 allowed per policy.

While at Hearing, the Appellant testified that he had scrapped the Harley-Davidson motorcycle two year ago but had failed to turn in the registration plates; the plates have since been turned in. Also, the Appellant no longer owns the 2011 Dodge Ram truck and 2005 Nissan Pathfinder, he traded-in both of these automobiles at a dealership in March of 2014 for a 2014 KIA Sorento and received a net trade-in allowance of \$9,533.72. Again, leaving the Appellant with a resource greater than the \$6,000.00 allowed per policy. Also, as part of the trade-in, the Appellant received a credit in value of the two automobiles traded-in, which would than allow that value to be counted as a resources.

A resource that is converted from one form to another does not result in income to the applicant. A previously excluded resource may become a countable resource if converted into another form (e.g. an excluded auto is sold for \$400 in cash. The cash received becomes a countable resource - not income). Conversely, a countable resource may become excluded (e.g. an excludable auto is purchased with \$400 in cash), but in no event does income result from the transaction. (DHS Policy § 0354.20 Resource Conversion or Sale)

In conclusion, the Appellant had submitted as part of his application for Medical Assistance that he owned four automobiles as well as four bank accounts, plus an IRA (Individual Retirement Account). The Appellant had listed and the agency had valued them as follows: A 2011 Dodge Ram truck, with a rough trade-in value of \$27,125.00; a Nissan Pathfinder, with a rough trade-in value of \$6,300.00; a 2000 Mazda Protégé, with a rough trade-in value of \$1,450.00; and a 2001 Harley-Davidson motorcycle, with an average retail value of \$8,585.00. Per policy, the agency excluded the 2011 Dodge Ram truck as a resource. The agency also counted as resources for the Appellant his bank accounts that were listed in his application: a Coventry Credit Union checking account with a balance of \$2,047.04; a Coventry Credit Union checking account with a balance of \$5.85; a Citizens Bank checking account with a balance of \$6.47; and a savings account with a value of \$605.59. The agency had considered the IRA an income, not a resource and was not part of their reasoning for issuing a denial to the Appellant at this time. Although the Appellant waited until at the Hearing to inform the agency that he had scrapped the motorcycle two years earlier and traded-in two other motor vehicles in March of 2014, those vehicles were listed in his application that he filed in October of 2013 and which is why the Appellant's application was properly denied by the agency.

After a careful review of the Agency's policies, as well as the evidence and testimony given, this Appeals Officer finds that the Appellant was over resources at the time of filing his application for Medical Assistance. The Appellant's request for relief is therefore denied.



Thomas Bucacci
Appeals Officer

APPENDIX

RHODE ISLAND DEPARTMENT OF HUMAN SERVICES

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 \$5,000 threshold limit per household.
Property (personal
valuables, antiques,
jewelry, pleasure
boats, etc.)

0354.20 RESOURCE CONVERSION OR SALE

REV:06/1994

A resource that is converted from one form to another does not result in income to the applicant. A previously excluded resource may become a countable resource if converted into another form (e.g. an excluded auto is sold for \$400 in cash. The cash received becomes a countable resource - not income). Conversely, a countable resource may become excluded (e.g. an excludable auto is purchased with \$400 in cash), but in no event does income result from the transaction.

0338.30 RESOURCE REDUCTION

REV:07/1994

If an applicant or recipient is found to be ineligible due to excess countable resources, s/he is notified that eligibility does not exist via an Eligibility Notice. Included with the Notice is an attachment describing the possibility of resource reduction (form MA-6). The applicant/recipient may establish eligibility if the excess resource amount is expended on allowable medical, legal, or guardianship/conservatorship expenses.

Eligibility may be established as of the date the allowable expense equals or exceeds the excess resource. (However the date of eligibility achieved via resource reduction can never be earlier than the first day of the month of application). To reduce resources under this provision, the applicant must verify the asset reduction within 30 calendar days of the date of the notification.

An applicant whose countable resources exceed the basic resource limitation may establish eligibility on the basis of resources if:

o S/he incurs (or has incurred) outstanding allowable medical bills or other allowable expenses that equal or exceed his/her excess resources; and,

o S/he reduces the excess resources to the appropriate resource limit by actually paying the allowable expenses or fees, and submitting verification thereof within thirty days of the date of the rejection or closing notice. Both the expenditure of the resource and submission of verification of the expenditure must occur within the thirty day time period.

Medical Assistance is not responsible for payment of that portion of the medical bills equal to the amount of the excess assets. The bills used to establish eligibility cannot be incurred earlier than the first day of the third month prior to the date of an application that is eventually approved.

Allowable bills, which the applicant has paid and used to reduce resources, may not be the same bills that have been used to meet an income spenddown.

The agency representative must see the bills that have been actually paid in order to verify that resources have been properly reduced.

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.