



Rhode Island Executive Office of Health and Human Services
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November 3, 2016



Docket # 16-2710
Date of Hearing: 11-2-16

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been found in your favor. During the course of the proceeding, the following issue(s) and Agency policy reference(s) were the matters before the hearing:

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES (EOHHS)
MEDICAID CODE OF ADMINISTRATIVE RULES
SECTION: 0354.05 Resource Limits
SECTION: 0354.40 Resource Reduction

The facts of your case, the Agency Rules and Regulations, 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: Your POA and Agency representatives: Theodore Dobek and Stephanie Terry.

Present at the hearing were: your sister and your POA.

ISSUE: Should the appellant have been denied for excess of resources?

EOHHS Rules and Regulations: Please see the attached APPENDIX for pertinent excerpts from the Executive Office of Health and Human Services Medicaid Code of Administrative Rules

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

DISCUSSION OF THE EVIDENCE:**The Agency representative testified:****The appellant's POA Testified:**

- The Appellant applied for LTC in June 2016.
- The Appellant was over the \$4000.00 resource limit.
- The Agency did not explain about resource reduction.
- The Appellant is no longer over resources and used the money on paying for a burial contract and the nursing facility.

FINDINGS OF FACT:

- The Appellant did apply for Medical Assistance in June 2016.
- The Agency did find him ineligible for LTC services in September 2016.
- The Agency did send a denial notice dated September, 2016.
- The Agency did find the Appellant over the SSI related resource limit for June 1, 2016.
- The Appellant filed for a timely request for appeal, received by the Agency on September 27, 2016.
- The Hearing was held on November 2, 2015.
- No one from the Agency attended the hearing.

CONCLUSION:

The issue to be decided is whether the Appellant was over the SSI related resource limit in June 2016.

In this matter the Appellant applied for LTC (Long-term Care Medical Assistance) in June 2016. During the application period the Agency was advised that he owned bank accounts that were in excess of the SSI related resource limit of \$4000.00.

A review of Agency Rules and Regulations reveals that each determination of eligibility (new, reopening or re-determination) 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 might exist. Resources must be verified by a review of documents related to the resource, with copies of the documentation kept for the case file.

The SSI related resource limit for individuals that are found to be medically needy is \$4000.00. The Appellant's POA testified that she has bought an Irrevocable Funeral Contract for \$3065.00 and paid the nursing facility \$2500.00. The POA has also made a total of \$4777.98 in medical payments for the appellant.

Further review of Agency Rules and Regulations indicates that if an applicant or recipient is found to be ineligible due to excess countable resources as of the first moment of the month, s/he is notified that eligibility does not exist via the Eligibility Notice. Included within the Notice is a description of the possibility of resource reduction. An applicant whose countable resources exceed the basic resource limitation may establish eligibility on the basis of resources if:

S/he incurs (or has incurred) outstanding allowable medical bills or other allowable expenses that equal or exceed his/her excess resources; and, 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 and the reduced resource must occur within the thirty day time period.

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 receipts for bills that have been actually paid in order to verify that resources have been properly reduced.

In this case because no representative from the Agency attended the hearing, and did not provide the notice sent to the Appellant, this Appeal Officer has no way of knowing whether or not the notice was proper and provided the resource reduction Policy. The Appellant's POA did provide payments and bank statements at hearing.

After careful and considerate review of the Agency's Rules and Regulations as well as the evidence and testimony submitted, this Appeals Officer finds that the Appellant has reduced his resources per Policy; therefore the Appellant's request for relief is granted.

ACTION FOR THE AGENCY: The Agency is to re-determine eligibility with the Appellant's receipts and bank statements provided at hearing.

Geralyn B. Stanford
Appeals Officer

APPENDIX

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 NEEEDY 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 NEEEDY 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.

ELIGIBILITY REQUIREMENTS

REV:07/2006

The rules regarding determinations of eligibility for institutionalized individuals differ from the rules for community residents with respect to:

- o Income limits;
- o Consideration of the income of an institutionalized individual with a community spouse;
- o The procedures utilized in the flexible test of income;
- o Evaluation of the resources of an institutionalized individual with a community spouse; and,
- o The impact of resource transfers.

In addition to income and resource eligibility, institutionalized applicants for MA must meet the technical and characteristic requirements of the program and require an institutionalized level of care.

The technical requirements for eligibility are:

- o Level of care;
- o Residency;
- o Enumeration;
- o Citizenship/Alienage;
- o Identity;

- o Accessing potential income and resources; and,
- o Cooperation in making income/resources available.

An individual must have a characteristic. The characteristics are:

- o Age (65 years or older);
- o Blindness;
- o Disability; and/or,
- o An AFDC-related characteristic.

0354.35 EXCLUDED RESOURCES

REV: 07/2008

In determining eligibility for Medical Assistance, for both Categorically Needy and Medically Needy SSI-related individuals/couples, the following resources are EXCLUDED:

- o THE HOME AND ASSOCIATED LAND;
- o HOUSEHOLD GOODS AND PERSONAL EFFECTS, up to a maximum of \$2,000 for Categorically Needy, up to a maximum of \$5,000 for Medically Needy. If the valuation exceeds these thresholds, the Excess amount is countable toward the basic resource limit;
- o ONE AUTOMOBILE is excluded if needed for employment, transportation to medical care, or if modified for use by a handicapped household member. Otherwise the first \$4,500 of Fair Market Value is excluded, with any balance over the \$4,500 threshold counting toward the basic resource limit;
- o LIFE INSURANCE with a face value less than \$1,500 for Categorically Needy, less than \$4,000 for Medically Needy;
- o BURIAL SPACES;
- o IRREVOCABLE BURIAL CONTRACTS OR TRUSTS;
- o FUNDS SET ASIDE FOR BURIAL, up to a maximum of \$1,500;
- o RETROACTIVE RSDI AND SSI BENEFITS, for a limited period;
- o RESOURCES NECESSARY FOR SELF-EMPLOYMENT;
- o RESOURCES DESIGNATED BY SSA FOR A PLAN OF SELFSUPPORT for a blind or disabled individual;
- o RESOURCES EXCLUDED BY SPECIFIC STATUTES;
- o RESOURCES DISREGARDED DUE TO PAYMENTS TO AN LTC

FACILITY UNDER A QUALIFIED STATE LONG TERM
 CARE INSURANCE PARTNERSHIP POLICY
 (see Sec. 0382.80ff on the Qualified Long Term Care
 Insurance Partnership program).

0354.40 RESOURCE REDUCTION

REV:01/2002

If an applicant or recipient is found to be ineligible due to excess countable resources as of the first moment of the month, s/he is notified that eligibility does not exist via the InRHODES Eligibility Notice. Included within the Notice is a description of the possibility of resource reduction.

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 and the reduced resource must occur within the thirty day time period.

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 receipts for bills that have been actually paid in order to verify that resources have been properly reduced.

0354.40.05 Date of Eligibility

REV:06/1994

An individual who reduces resources and is otherwise eligible will be eligible as of the date the incurred allowable expenses were equal to or exceeded the amount of his or her excess assets, subject to verification that the excess resource was actually expended on the allowable expense. In no event shall the first day of eligibility be earlier than the first day of the month of application. An applicant cannot establish eligibility by resource reduction in the retroactive period.

The applicant will be required to verify that:

- o S/he incurred the necessary amount of expenses; and,
- o His or her excess resources were reduced to the allowable resource limit by expenditure of the excess resource on the allowed expense.

0354.40.10 Allowable

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.