

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-014859
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: October 08, 2015
County: Wayne (15) Greendale

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 8, 2015, from Detroit, Michigan. The Petitioner, represented by the Petitioner and Petitioner's spouse and Authorized Hearing Representative (AHR), [REDACTED] also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment's Worker

ISSUE

Did the Department properly impose a Medical Assistance (MA) spend-down deductible amount on the Petitioner and her spouse?

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 June 8, 2015, the Department issued a Health Care Coverage Determination Notice, which imposed a monthly Deductible of \$ [REDACTED] on the Petitioner and Petitioner's spouse effective May 1, 2015. Exhibit 1 and Exhibits 3 and 4.
2. The Petitioner's daughter, who is [REDACTED] old, lives with Petitioner and her spouse.
3. The Petitioner's minor daughter did not have a spend down, and her MA coverage is not in issue. The Department testified that she received other Healthy Kids Medical Assistance. The Petitioner's sons, who also live with her, receive MA from their father's (not Petitioner's current spouse) health insurance, and are not part of the Petitioner's fiscal MA group. The Department did not present evidence regarding whether the Petitioner's sons were Petitioner's tax dependents or their father's. Exhibit 2.

4. The Petitioner does not work, and the Petitioner's spouse is employed. The Employment Budget Summary presented by the Department indicated the MA budget amount used to determine the spend down was \$ [REDACTED]. The Department did not present any pay stubs to support the MA Budget amount. The AHR did not dispute the Department's gross income amount as presented. Exhibit 5.
5. The Petitioner requested a timely hearing on July 30, 2015, protesting the Department's actions.

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.

In this case, the Petitioner requested a hearing after the Department imposed a deductible of \$ [REDACTED] on both the Petitioner and her spouse. The MA employment income used by the Department was \$ [REDACTED] Petitioner's spouse's earned income; the Petitioner does not work. Exhibit 5. On June 8, 2015, the Department issued a Health Care Coverage Determination Notice imposing a \$ [REDACTED] deductible effective July 1, 2015, for the spouse and May 1, 2015, for the Petitioner. Exhibit 1.

To receive MA under a Group 2 SSI-related MA category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105 or be eligible as a Group 2 caretaker relative under BEM 135. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (based on shelter area and fiscal group size). BEM 105 (October 1, 2014), p. 1; BEM 166 (July 1, 2013), p.2; BEM 544 (July 1, 2013) p.1 ; RFT 240 (December 1, 2013), p. 1). While individuals eligible for Group 2 MA have income equal to, or less than, the protected income level, an individual whose income is in excess of the monthly protected income level may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the protected income levels. BEM 545 (October 1, 2015) p. 2-3.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105, p. 1. Medicaid

is also known as Medical Assistance ("MA"). *Id.* The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for Supplemental Security Income (SSI) recipients. *Id.* Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program thus are categorized as either FIP related or SSI related. *Id.* To receive MA under an SSI related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. *Id.*

There are various SSI related categories under which one can qualify for MA benefits. BEM 150-174. The MA regulations also divide MA recipients into Group 1 and Group 2 which relate to financial eligibility factors. For Group 2, eligibility is possible even when net income exceeds the income limit which is the case in the instant matter. This is because incurred medical expenses are used when determining eligibility for FIP-related and SSI-related Group 2 categories. *Id.*

To determine whether an individual is eligible for Group 1 or Group 2 MA, the individual's protected income level (PPI) must be determined. The PPI is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 (July 1, 2015) lists the Group 2 MA protected income levels based on shelter area and fiscal group size. BEM 544, p. 1. If the fiscal group has net income that is the same or less than the PPI, found in RFT 240, then it will qualify for MA. If the net income is over the PPI, then the fiscal group may become eligible for assistance under the deductible program.

A deductible is a process which allows a client with excess income to be eligible for MA if sufficient allowable medical expenses are incurred. In this case, the Petitioner and her spouse live in ██████ County; and thus, the protected income level for a group of 2 is \$█████ as correctly determined by the Department's budget(s). Exhibits 4 and 5. The fiscal group was counted as 2 persons. BEM 211 defines the fiscal group as the Petitioner and her spouse. BEM 211, (1/1/14) p. 6.

Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The MA group must report expenses by the last day of the third month following the month it wants medical coverage to continue. BEM 545, p 3-4. At the hearing, the Department provided the MA group 2 budgets. During the hearing, the budget was not explained as the actual calculations were done by the Bridges system. The formula for calculating the deductible is a multi-step formula found in BEM 536 and was not reviewed at the hearing or analyzed by the Department. BEM 536 (January 1, 2014) p. 1-7.

The countable income for Medical Assistance used by the Department was provided and was determined to be \$█████ monthly based upon pay stubs which were not presented. However, the AHR Petitioner's spouse testified that the income was correct. The Petitioner's income used for determining the deductible was \$0 and her spouse's income was \$█████ in earned income. Exhibits, 3, 4, and 5. Using the income amount of \$█████ income used by the Department and following the formula in steps 1 through 13 to determine the spouse's prorated share provided in BEM 536, the first

step requires that \$ [REDACTED] is deducted from the income and then it is divided by the sum of 2.9 plus the number of dependents, which in this case is 2. $\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$ divided by the number of dependents plus 2.9 or by 4.9) = \$ [REDACTED]. The \$ [REDACTED] is the Adult's spouse's pro rated income. The Department's budget uses \$ [REDACTED] and is incorrect as calculated by the Department. As no explanation was given how the Department determined the adult spouse's prorated income, the amount was determined using the formula in BEM 536; the Department did not meet its burden of proof to demonstrate that it followed Department policy. Exhibit 3.

The same step is also applied for the Petitioner whose income is \$0 monthly. ($\$0 \div 4.9 = \0). This is the Petitioner's share of her income. This is correctly calculated.

The purpose of the hearing was to determine whether, based upon the evidence presented, the Department correctly calculated the Petitioner's and her spouse's MA deductible. Based upon the budgets presented at the hearing used to determine the Group 2 FIP Related MA Adult deductible, it is determined that the deductible of \$ [REDACTED] as calculated by the Department is incorrect; and the Department did not meet its burden of proof to demonstrate why their budgets were correct. Exhibits 3 and 4.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that the Petitioner's deductible was \$ [REDACTED].

DECISION AND ORDER

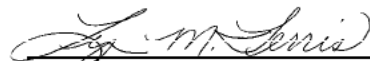
Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall recalculate the Petitioner's and her Spouse's MA Group 2 FIP Related Adult budgets and redetermine the deductible.
2. The Department shall provide written notice of its determination to the Petitioner of its re determination of the MA deductible in accordance with Department policy.

Date Mailed: **10/30/2015**

LMF/jaf



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:

