

**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.: 15-019253
Issue No.: 2007
Agency Case No.: [REDACTED]
Hearing Date: January 6, 2016
County: WAYNE-DISTRICT 17

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 January 6, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator. Also, Eligibility Specialist [REDACTED] was present at the hearing as Petitioner's interpreter.

ISSUE

Did the Department properly calculate Petitioner and his spouse's Medical Assistance (MA) deductible for [REDACTED], ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner and his spouse are ongoing recipients of MA - Group 2 Spend-Down (G2S) benefits.
2. Petitioner and his spouse live together and they reside in Wayne County.
3. Petitioner receives \$989 in monthly Retirement, Survivors and Disability Insurance (RSDI) and his spouse receives \$494 in monthly RSDI income. See Exhibit B, pp. 1-6.

4. Petitioner and his spouse receive Medicare Part B, which they are not responsible to pay for (State of Michigan pays for the Medicare Part B premium). See Exhibit B, pp. 1-6.
5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying Petitioner that he and his spouse's MA – G2S deductible would be \$728 for March of 2015 and \$753 for [REDACTED], ongoing. See Exhibit A, pp. 6-7. The determination notice also indicated that Petitioner and spouse received Medicare Savings Program (MSP) benefits effective [REDACTED], ongoing. See Exhibit A, pp. 6-7.
6. On [REDACTED], Petitioner filed a hearing request, disputing their deductible. See Exhibit A, pp. 2-3.

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.

Preliminary matter

First, on [REDACTED], the Department sent Petitioner a determination notice notifying Petitioner that he and his spouse's MA – G2S deductible would be \$728 for March of 2015 and \$753 for [REDACTED], ongoing. See Exhibit A, pp. 6-7. However, Petitioner did not file a hearing request to dispute the actions until [REDACTED]. See Exhibit A, pp. 2-3. There was no evidence presented that Petitioner filed an earlier hearing request.

The client or Authorized Hearing Representatives (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (April 2015 and October 2015), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6.

Based on the foregoing information and evidence, Petitioner's hearing request was not timely filed within ninety days of the determination notice. However, Petitioner can dispute the current amount of his MA deductible. See BAM 600, pp. 1-6. As such, the undersigned will go back 90 days to review his MA deductible, which would be August 2015 to October 2015 (month of the hearing request). See BAM 600, pp. 1-6. But, the undersigned lacks the jurisdiction to address Petitioner's MA deductible from March 2015 to July 2015 because his hearing request was not timely filed within ninety days of the determination notice. See BAM 600, pp. 1-6.

Second, as part of the evidence record, the Department presented the MA-G2S budget for the benefit period of [REDACTED], ongoing, that showed the deductible amount to be \$753. See Exhibit A, p. 5. Moreover, during the hearing, it was not disputed that this budget also properly represented the same calculations for the deductible period of [REDACTED], ongoing. As such, both parties and the undersigned reviewed this budget during the hearing to see if the Department properly calculated the deductible effective [REDACTED], ongoing. However, as part of the evidence record, the Department was also going to provide the actual budget for August of 2015 by faxing it subsequent to the hearing. The undersigned received the budget for August 2015; however, now it showed the MA deductible amount was \$963. See Exhibit B, pp. 7-8. It appears that the Department had already conducted subsequent actions after the hearing, which resulted in the deductible amount increasing. The undersigned will therefore not review this additional documentation received as it did not reflect the budget of June 2015, ongoing, that both parties and the undersigned reviewed. Petitioner can request another hearing if he disputes the budget showing a deductible amount of \$963. See BAM 600, pp. 1-6.

MA – G2S deductible

In the present case, Petitioner and his spouse both live together and reside in [REDACTED]. Therefore, Petitioner and his spouse's fiscal group size is two. See BEM 211 (January 2015), p. 5. Moreover, the Department will consider Petitioner and his spouse's total income when determining the calculation of their deductible. See BEM 211, pp. 5-6.

G2S is a Security Income (SSI)-related Group 2 MA category. See BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

In this case, the Department presented MA-G2S budget for the benefit period of June 2015, ongoing. See Exhibit A, p. 5.

First, the Department properly calculated Petitioner's and his spouse's gross total unearned income to be \$1,483. See Exhibit A, p. 5. This amount consisted of Petitioner's monthly RSDI income of \$989 and his spouse's monthly RSDI income of

\$494. See Exhibit B, pp. 1-6 and BEM 503 (July 2015 and October 2015), p. 28 (the Department counts the gross benefit amount of RSDI as unearned income).

Second, the Department then properly subtracted the \$20 disregard to establish Petitioner and his spouse's total net unearned income of \$1,463. BEM 541 (January 2015), p. 3.

Third, the Department deducted Petitioner and his spouse's \$104.90 in Medicare Part B premiums (total of \$209.80 for both), which resulted in a total countable income of \$1,253.20. See Exhibit A, p. 5 and see BEM 544 (July 2013), p. 1. However, an issue arose during the hearing because the evidence presented that Petitioner and his spouse are not responsible for their Medicare premiums. See Exhibit B, pp. 1-6. Instead, the evidence presented that the State of Michigan pays both the Petitioner and his spouse's Medicare premiums. See Exhibit B, pp. 1-6. Policy states not to include premiums paid by the employer or any other non-medical group source. BEM 544, p. 1. The Department should have not included the Medicare premiums in the calculation because Petitioner and his spouse are not responsible for such costs. See BEM 544, pp. 1-2. As such, the Department miscalculated the MA-G2S budget for both Petitioner and his spouse in accordance with Department policy. The Department will recalculate Petitioner and his spouse's MA-G2S budget effective [REDACTED], ongoing, in accordance with Department policy.

It should be noted that Petitioner indicated that he and his spouse have ongoing medical expenses (i.e., prescription co-pays); however, he failed to provide any proof of his ongoing medical expenses for the hearing. Moreover, Petitioner testified that he did have a medical bill present with him at the hearing, but that it was submitted to the Department one-month ago. This would have been on or around December of 2015, which was after Petitioner's hearing request. The undersigned will not address whether the Department properly processed Petitioner's submitted medical expense from a month ago because it occurred after this hearing request. If Petitioner disputes the Department's failure to process any medical expenses, he can request another hearing. See BAM 600, pp. 1-6. Finally, Petitioner indicated that he had other medical expenses from the hospital, but again, he did not have them present for this hearing. Based on the above information, the undersigned will not address Petitioner's ongoing medical expenses and/or whether the Department failed to process any submitted medical expenses.

DECISION AND ORDER

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 did not act in accordance with Department policy when it improperly calculated Petitioner and his spouse's MA deductible effective [REDACTED].

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. Recalculate the MA budget for [REDACTED], ongoing;
2. Issue supplements to Petitioner for any MA benefits he or his spouse were eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/7/2016**

Date Mailed: **1/7/2016**

EF / hw

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:

