

**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.: 15-019260  
Issue No.: 2001  
Agency Case No.: [REDACTED]  
Hearing Date: December 16, 2015  
County: Wayne (17) Greenfield/Joy

**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 December 16, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

**ISSUE**

Did the Department properly determine the Petitioner's Medical Assistance (MA) eligibility based upon a spend down?

**FINDINGS OF FACT**

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

1. The Department issued a Notice of Case Action on September 26, 2015, placing the Petitioner on a \$ [REDACTED] monthly spend-down MA.
2. The Petitioner has income of \$ [REDACTED] and pays a Medicare Part B premium of \$ [REDACTED] Exhibit 1 and Petitioner Exhibit B.
3. The Protected income level for a person living in [REDACTED] County is \$ [REDACTED]. The Petitioner lives in [REDACTED] County. Exhibit 3.
4. The Eligibility Summary admitted at the hearing and received after the hearing does not match the Health Care Coverage Determination Notice dated September 26, 2015, finding Petitioner eligible as of November 1, 2015, with a deductible of \$ [REDACTED]. November and December 2015 show deductible in the amount of \$ [REDACTED]. The Petitioner began having her Medicare Part B premium deducted beginning in November 2015. Exhibit B.

5. The Petitioner requested a hearing on October 5, 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, 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the Petitioner was an ongoing recipient of MA subject to a deductible of \$ [REDACTED] based upon her Retirement, Survivors and Disability Insurance (RSDI) income of \$ [REDACTED]. The Department presented a spend-down budget that was reviewed at the hearing to determine if the Department properly determined the deductible. The budget received after the hearing from the Department is not correct as it does not include and deduct the Medicare Part B premium of \$ [REDACTED] as required by the Social Security Administration (SSA) letter presented at the hearing by the Petitioner. Petitioner Exhibit B. The budget as submitted for November 2015 is not correct; however, the deductible amount as determined by this Decision and the Health Care Coverage Determination Notice of September 26, 2015, is correct. Exhibit 3.

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA Protected Income Levels (PIL) based on their shelter area and fiscal group size, are eligible for MA coverage under the deductible program with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; BEM 545 (July 2011), p. 2; RFT 240 (July 2007), p. 1.

In this case, the monthly PIL for an MA group of one (Petitioner) living in [REDACTED] County is \$ [REDACTED]. BEM 211 (November 2012), p. 5; RFT 200 (July 2007), p. 1; RFT 240, p. 1. Therefore, Petitioner's MA coverage is subject to a deductible if Petitioner's monthly net income, based on her gross income, is greater than \$ [REDACTED].

In this case, the Department produced an Supplemental Security Income (SSI)-Related MA budget showing how the deductible in the Petitioner's case was calculated. Exhibit 3. Petitioner confirmed her monthly gross income amount from RSDI. Thus, the Department properly concluded that Petitioner's gross income was \$ [REDACTED]. Exhibit 1 and Petitioner Exhibit B. This gross unearned income amount is reduced by a \$ [REDACTED] disregard, resulting in a net unearned income of \$ [REDACTED]. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p.5. The Petitioner also had an

Insurance Premium expense in the amount of \$ [REDACTED] which was also deducted from her income, leaving countable income of \$ [REDACTED]. No other expenses were presented; thus, the final step is to deduct the \$ [REDACTED] the PIL, from the net income of \$ [REDACTED] which results in a deductible of \$ [REDACTED]. In the budget presented, no medical bills were included. As the Petitioner was advised at the hearing, once medical bills are submitted, the medical bills are applied as a medical expense and reduce net countable income, but only when bills are presented.

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 acted in accordance with Department policy when it imposed a \$ [REDACTED] medical spend-down deductible in the Petitioner's case. The budget sent to the undersigned as Exhibit 2 after the hearing is incorrect as it does not deduct the Medicare Part B premium of \$ [REDACTED]. Exhibits 1, 2 and 3 and Petitioner Exhibit B. The Health Care Coverage Notice issued September 26, 2015, advises the deductible is \$ [REDACTED] ongoing beginning November 1, 2015.

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 acted in accordance with Department policy when it calculated the Petitioner's medical spend-down amount to be \$ [REDACTED] however, the Department records Eligibility Summary do not accurately reflect this determination or the Healthcare Coverage Determination Notice. Therefore, the case must be corrected.

### **DECISION AND ORDER**

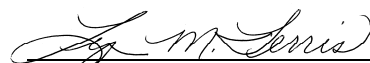
Accordingly, the Department's decision is **REVERSED**.

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 spend-down budget based upon income of \$ [REDACTED] and a Medicare Part B premium of \$ [REDACTED] if it has not already done so.
2. The Department shall correct its Eligibility Summary case records for the Petitioner to correctly reflect the eligibility status with a deductible of \$ [REDACTED] as of November 1, 2015, so that it conforms to the Health Care Coverage Determination Notice dated September 26, 2015.

Date Mailed: **12/17/2015**

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:

