

**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.: 15-022710
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: February 11, 2016
County: MACOMB-DISTRICT 12

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 February 11, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR), [REDACTED]. The Department was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly close Petitioner's eligibility for the Medical Assistance (MA) – AD-Care coverage effective [REDACTED]?

Did the Department properly calculate Petitioner's MA – Group 2 Spend-Down (G2S) deductible effective [REDACTED]?

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 is an ongoing recipients of MA benefits. See Exhibit A, p. 9.
2. Petitioner receives \$1,001 in monthly Retirement, Survivors and Disability Insurance (RSDI) income. See Exhibit B, pp. 1-2.
3. Effective [REDACTED], Petitioner was no longer eligible for AD-Care coverage because her net income exceeded the limits.

4. Effective [REDACTED], the Department converted Petitioner's MA coverage to a deductible.
5. On [REDACTED] the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was eligible for MA – G2S coverage (with a \$358 deductible) effective [REDACTED], ongoing. See Exhibit A, pp. 4-6. The determination notice also indicated that Petitioner received Medicare Savings Program (MSP) benefits effective [REDACTED], ongoing. See Exhibit A, pp. 4-6.
6. On [REDACTED], Petitioner's AHR filed a hearing request, protesting the Department's action. 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.

MA – AD-Care

In the present case, Petitioner was an ongoing recipient of AD-Care benefits; however, due to excess income, Petitioner was converted to G2S coverage effective October 1, 2015 (with a \$358 monthly deductible). As such, the undersigned will first determine if the Department properly determined that Petitioner is no longer eligible for AD-Care coverage.

AD-Care is a Supplemental Security Income (SSI)-related Group 1 MA category. See BEM 163 (July 2013), p. 1. This category is available to persons who are aged or disabled (AD). BEM 163, p. 1. All eligibility factors in this item must be met in the calendar month being tested. BEM 163, p. 1.

Additionally, policy states that net income cannot exceed 100% of the poverty level. BEM 163, p. 1. Income eligibility exists when net income does not exceed the income limit in RFT 242. BEM 163, p. 2. RFT 242 states that the income limit for AD-Care for a fiscal group of one effective April 1, 2015, is \$1,000.83. See RFT 242 (May 2015), p. 1.

However, it should be noted that RFT 242 policy includes the following statement with the table, "Income limits are 100 percent of the Federal Poverty Level (FPL) + \$20 disregard." RFT 242, p. 1. Thus, the undersigned interprets this statement to mean that the \$1,000.83 limit is comprised of 100% of the FPL plus the \$20 disregard (the disregard will be explained below).

The 2015 federal poverty limit was \$11,770 per year; this amount breaks down to a monthly average of \$980.83/month, but when the Department adds in the \$20 disregard, this increased the limit to \$1,000.83 as shown in RFT 242. Nonetheless, AD-Care policy clearly states in the beginning of BEM 163 that net income cannot exceed 100% of the poverty level. BEM 163, p. 1. Therefore, Petitioner's net income cannot exceed 100% of the FPL for a group size of one, which in this case is \$980.83. It should be noted that the Department including the \$20 disregard in the RFT 242 income table can make it quite confusing. But ultimately, policy states that for AD-Care eligibility, the individual's net income cannot exceed 100% of the FPL. BEM 163, p. 1.

Additionally, the Department determines countable income according to SSI-related MA policies in BEM 500 and 530 except as explained in "COUNTABLE Retirement, Survivors, and Disability Insurance (RSDI)" section listed in BEM 163. BEM 163, p. 2. Gross amount means the amount of RSDI before any deduction such as Medicare. BEM 163, p. 2. For all months (except January, February, or March), countable RSDI is the gross amount for the month being tested. BEM 163, p. 2.

In the present case, it was not disputed that Petitioner is aged or disabled (AD). BEM 163, p. 1. The Department presented Petitioner's AD-Care budget for October 2015. See Exhibit B, p. 3.

First, the Department properly calculated Petitioner's gross total unearned income to be \$1,001, which comprised of her RSDI income. See Exhibit B, p. 3; BEM 163, p. 2; and BEM 503 (October 2015), p. 28 (the Department counts the gross benefit amount of RSDI as unearned income).

Second, the Department then applies the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p. 2. In this case, the Department would subtract the \$20 disregard to establish Petitioner's total net unearned income to be \$981. BEM 541 (January 2015), p. 3 and Exhibit B, p. 3.

The Department does provide budget credits for employment income, guardianship/conservator expenses and cost of living adjustments (COLA) (for January through March only). See Exhibit B, p. 3 and BEM 541, pp. 1-7. Petitioner's AHR did not allege to have any countable expenses.

Based on the above policy, Petitioner's countable income of \$981 for AD-Care purposes barely exceeds the income limit of \$980.83. See Exhibit B, p. 3. As such, it is found that the Department properly denied Petitioner's AD-Care eligibility.

MA – G2S deductible

Next, Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. In this case, Petitioner was found eligible for G2S, subject to a \$358 deductible. The undersigned will now determine if the Department properly calculated Petitioner's G2S budget.

In the present case, Petitioner's group size is one and she resides in Macomb County. The Department presented the G2S budget for the benefit period of October 2015. See Exhibit B, p. 4.

G2S is an 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 properly calculated Petitioner's gross total unearned income to be \$1,001. See Exhibit B, p. 4 and BEM 503, p. 28.

The Department then properly subtracted the \$20 disregard to establish Petitioner's total net unearned income of \$981. BEM 541, p. 3.

Next, the Department does provide budget credits, which can reduce the total net income and more importantly, the deductible amount. In this instance, policy allows that Department to take into account health insurance premiums. Policy states that the Department counts as a need item the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the medical group (defined in "EXHIBIT I") regardless of who the coverage is for. BEM 544 (July 2013), p. 1. In this case, Petitioner is responsible for \$214.50 in insurance premiums. See Exhibit B, p. 4. As such, the Department properly subtracted \$214.50 in health insurance premiums from the total net income of \$981, which resulted in a countable income of \$766.50. See Exhibit B, p. 4.

Finally, 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 (PIL), which is based on shelter area and fiscal group size. BEM 105 (October 2014), p. 1; BEM 166, p. 2; BEM 544, p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one living in Macomb County is \$408 per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$408, 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 PIL. BEM 545 (October 2015), p. 1.

Based on the above policy, Petitioner's countable income of \$766.50 for MA purposes exceeds the monthly protected income level of \$408 by \$358. See Exhibit B, p. 4. Thus, the Department properly calculated Petitioner's G2S deductible to be \$358 effective [REDACTED], in accordance with Department policy.

It should be noted that the FPL for a family size of one appeared to increase from \$11,770 in 2015 to \$11,880 for 2016 according to the 2016 Poverty Guidelines for the 48 Contiguous States and the District of Columbia. 2016 Poverty Guidelines, U.S. Department of Health & Human Services, January 25, 2016, p. 1. Available at: <https://aspe.hhs.gov/poverty-guidelines>. Thus, the 2016 FPL of \$11,880 when broken down to a monthly average is \$990/month. Petitioner's countable income of \$981 might make her eligible again for AD-Care due to the increased limit. However, the undersigned Administrative Law Judge (ALJ) emphasizes that he is not making a determination one way or another that Petitioner is eligible for AD-Care again. Petitioner must reapply for MA benefits and the Department would subsequently redetermine her eligibility.

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 acted in accordance with Department policy when it properly determined Petitioner's MA eligibility effective October 2015.

Accordingly, the Department's MA decision is **AFFIRMED**.



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

Date Signed: **FEBRUARY 22, 2016**

Date Mailed: **FEBRUARY 22, 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:

