



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

DATE MAILED: MARCH 4, 2016
MAHS DOCKET NO.: 15-023302
AGENCY NO.: [REDACTED]
PETITIONER: [REDACTED]

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 February 17, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly determine the Petitioner's Medical Assistance (MA) deductible amount?
2. Did the Department properly close the Petitioner's Medicare Cost Sharing SLMB and provide the Petitioner limited coverage QMB?
3. Did the Department determine the Petitioner's eligibility for Medicaid Personal Care Option when she was placed on a spend-down and her Medicaid closed?

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 determined that Petitioner was eligible for MA subject to a deductible of \$ [REDACTED]. The Petitioner had previously been found eligible for full Medicaid. As of November 1, 2015, the Petitioner was placed on a spend-down of \$ [REDACTED] per month.

2. The Petitioner receives \$ [REDACTED] Retirement, Survivors and Disability Insurance (RSDI) from Social Security Administration (SSA) and a pension of \$ [REDACTED] for total unearned income of \$ [REDACTED]. The Petitioner also pays \$ [REDACTED] in Medicare Part D insurance premium. Exhibit A.
3. The Department changed Medicaid coverage to Limited Coverage QMB from Full coverage SLMB in November 2016.
4. The Petitioner requested a timely hearing on December 3, 2015, regarding her Medicaid.

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 Department presented a MA spend-down budget placing the Petitioner on a spend-down of \$ [REDACTED]. Exhibit A. The budget was reviewed at the hearing and was determined to be correct.

During the hearing the Department verified Petitioner's gross unearned income and pension to be \$ [REDACTED] for a total gross monthly unearned income of \$ [REDACTED]. The Department testified that, although Petitioner was not eligible for full-coverage MA, she was eligible for MA with a monthly \$ [REDACTED] deductible for November 2015.

Clients are eligible for Group 2 MA coverage when their net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. BEM 105 (October 1, 2010), p. 1; BEM 166 (October 1, 2010), pp. 1-2; BEM 544 (August 1, 2008), p. 1; RFT 240 (July 1, 2007), p. 1. The monthly PIL for an MA group size of one living in Wayne County is \$375 per month. RFT 200 (July 1, 2007), p. 1; RFT 240, p. 1. Thus, if Petitioner's net income is in excess of \$ [REDACTED] she may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly income exceeds \$ [REDACTED]. BEM 545 (July 1, 2011), p. 2.

Policy also provides that when completing an Supplemental Security Income (SSI)-related MA budget for adults the following items be considered and applied:

Department policy requires that the cost of any health insurance premiums be included when budgeting a spend down.

Count 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 1, 2013) p.1

In this case, the Department produced an SSI-Related MA budget showing how the deductible in Petitioner’s case was calculated. Exhibit A. As discussed above, Petitioner’s net unearned income totaled \$ [REDACTED] after deducting a \$ [REDACTED] general exclusion. BEM 530 (October 1, 2012), p. 1; BEM 541 (January 1, 2011), p. 3. The evidence at the hearing showed that Petitioner had not presented the Department with any medical expenses at the time the budget was prepared. A Part D insurance premium of \$ [REDACTED] was then deducted leaving \$ [REDACTED] in countable income. The deductible is then determined by subtracting \$ [REDACTED] from \$ [REDACTED] leaving a deductible spend down amount of \$ [REDACTED]. The budget as presented is correct as is the spend down of \$ [REDACTED].

The Petitioner also requested a hearing regarding why her full Medicare cost sharing SLMB was changed to limited coverage QMB as of January 11, 2016. These benefits are based upon the amount of monthly income a client receives. The income limit for SLMB group of one person was \$ [REDACTED]. The monthly income limit for a QMB limited coverage group of one is \$ [REDACTED] - \$ [REDACTED]. Thus, as can be seen based upon monthly income of \$ [REDACTED] the petitioner is eligible for QMB, and is not eligible for SLMB. Thus the Department was correct in changing the the coverage to QMB. RFT 242, (April 2016) Tables 1 and 1, page 1.

The Petitioner also requested a hearing as to why her Home Care Services provider was not being paid. In order to be eligible for chore provider services, Department policy requires that the recipient of services must be eligible for **full Medicaid**. ASM 105 (April 1 2015) p. 1 provides:

Home help eligibility requirements include **all** of the following:

- Medicaid eligibility.
- Certification of medical need.
- Need for service, based on a complete comprehensive assessment indicating a functional limitation of level 3 or greater for at least one activity of daily living (ADL).

- Appropriate Level of Care (LOC) status.

In this case, because the Petitioner was determined no longer eligible for full Medicaid, the Petitioner was no longer eligible for home help chore services.

Department policy also notes that eligibility for these services is met if the MA deductible obligation has been met. ASM 105, p. 2. Policy further provides that Clients with a scope of coverage of 2c are **not** eligible for Medicaid until they have met their MA deductible.

The Petitioner may be eligible for home help personal care services and may become eligible for MA under the Medicaid Personal Care Option. The Department is required to discuss this option with the client and coordinate implementation with the eligibility specialist. Conditions of eligibility are:

- The client meets all Medicaid eligibility factors except income.
- An independent living services case is open.
- The client is eligible for home help services.
- The cost of personal care services is **more** than the MA excess income amount.

If **all** the above conditions have been satisfied, the client has met MA deductible requirements. The adult services specialist can apply the personal care option in ASCAP. The deductible amount is entered on the **MA History** tab of the Bridges **Eligibility** module in ASCAP. ASM 105 p.

The notice must inform the client that the home help payment will be reduced by the deductible amount, and that the client is responsible for paying the provider the MA deductible amount each month.

Do **not** close a case eligible for MA based on this policy option if the client does not pay the provider. It has already been ensured that MA funds will not be used to pay the client's deductible liability. The payment for these expenses is the responsibility of the client.

Changes in the client's deductible amount will generate a system tickler from Bridges.

MA eligibility under this option **cannot** continue if the cost of personal care becomes **equal to or less than** the MA excess income amount. ASM 105, p. 2

The Department did not advise the Petitioner of the Medicaid Personal Care Option and must do so as required by Department policy and determine if the Petitioner is eligible for this the Medicaid Personal Care Option.

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 changed the Petitioner's MA from full Medicaid to a spend-down based upon the Petitioner's income, and also correctly changed Petitioner's SLMB to QMB based upon the Petitioner's income.

The Department did not act in accordance with Department policy when it did not discuss the Medicaid Personal Care Option with the Petitioner and determine her eligibility for this program.

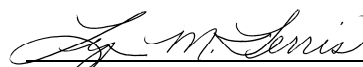
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** with respect to placing the Petitioner on a spend-down of \$ [REDACTED] and limited coverage QMB and **REVERSED** with respect to its failure to determine whether the Petitioner was eligible for the Medicaid Personal Care Option.

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 determine eligibility of the Petitioner for the Medicaid Personal Care Option for Home Help person care services. The Department shall discuss this program with the Petitioner.
2. The Department shall notify the Petitioner in writing of its determination of eligibility for the Medicaid Personal Care Option for Home Help person care services.

LF/



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party

requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

PETITIONER

[REDACTED]