

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-023506
Issue No.: 2001
Agency Case No.: ██████████
Hearing Date: February 01, 2016
County: Macomb-District 12

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 three way telephone hearing was held on February 1, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with her Authorized Hearing Representative (AHR) ██████████. The Department was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) and Medicare Savings Program (MSP) benefits?

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 was an ongoing recipient of MA benefits under the Ad-Care program and MSP benefits under the QMB category.
2. In connection with a redetermination, Petitioner's eligibility to receive MA benefits was reviewed.
3. On October 29, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective December 1, 2015, her MA and MSP cases would be closed on the basis that she failed to verify requested information. (Exhibit A, pp. 2-5)

4. The Department received the missing information/verification and processed Petitioner's redetermination.
5. On December 3, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that it had reinstated her MA case under the Ad-Care program and MSP case under QMB category effective December 1, 2015. (Exhibit A, pp. 6-8)
6. On December 16, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective January 1, 2016, ongoing, she was eligible for MA with a monthly deductible of \$717 and that effective January 1, 2016, her MSP case would be closed on the basis that her income exceeded the limit. (Exhibit A, pp. 9-14)
7. On December 16, 2015, the Department received Petitioner's hearing request on which she disputes the Department's actions concerning her MA benefits.

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 testified that after processing Petitioner's redetermination, it determined that she was no longer eligible for MA under the Ad-Care program and that her income was in excess of the limit for the MSP program. The Department testified that it sent Petitioner a Health Care Coverage Determination Notice informing her of the MSP case closure effective January 1, 2016, as well as her informing her that she was eligible for MA, but subject to a deductible of \$717. (Exhibit A, pp. 9-14). Although the Notice indicates a deductible amount of \$717, the eligibility summary and MA budget provided establish that Petitioner was approved for MA under the Group 2 Caretaker (G2C) MA program with a monthly deductible of \$612. (Exhibit A, p.21; Exhibit B).

MA Transfer from Ad-Care to G2C with Monthly Deductible

Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2013), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (July 2013), pp. 1-2. Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p.2. Petitioner has a MA fiscal group of one. BEM 211 (January 2015), p. 5. Effective April 2015, a MA fiscal group with a single member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$980.83, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (May 2015), p. 1.

In this case, the Department presented a SSI Related MA Income Results budget to which indicated that Petitioner had unearned income in the amount of \$1905 and which consisted of her monthly RSDI benefits in the amount of \$875.90 and other unearned income from child support for an adult child no longer in the home in the amount of \$1029.74. (Exhibit A, p. 20); BEM 503 (October 2015), pp. 6-9; 28; BEM 505 (July 2015), pp. 3-4. An SOLQ and child support search were presented in support of the Department's testimony. (Exhibit A, pp. 23-26, 30-31). Pursuant to BEM 541, the Department testified that it determined Petitioner was entitled to a deduction of \$512 based on the allocation to non-SSI related children, which in Petitioner's case, she has two. BEM 541 (January 2016), pp. 2-3. The Department also properly subtracted the \$20 disregard. BEM 530 (January 2014), pp. 1-2; BEM 541, p 3. After further review, the Department properly determined that Petitioner had net income of \$1373, which is in excess of the \$980.83 applicable income limit for full coverage Ad-Care MA eligibility. Therefore, the Department properly terminated Petitioner's Ad-Care MA benefits.

Additionally, 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 132 (January 2015), pp. 1-2; BEM 135 (January 2015), p 1,3; BEM 544 (July 2013), p 1; BEM 545 (January 2015); RFT 200 (December 2013); RFT 240 (December 2013), p 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 211 (January 2015); BEM 536 (January 2014).

In determining a person's eligibility and their fiscal group, however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211 (January 2015), p.5. The monthly PIL for Petitioner's one person fiscal group (Petitioner) living in Macomb County is \$408 per month. BEM 211, pp.5-6; RFT 200, p 1; RFT 240, p 1.

A multi-step process is then utilized when determining a fiscal group member's income and deductible. BEM 536, pp. 1-7. Thus, if Petitioner's net monthly income is in excess of the \$408, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the monthly income exceeds \$408. BEM 545, p 1.

The Department presented a G2-FIP Related MA Net Income Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's monthly deductible under the G2C program. (Exhibit A, p. 21). In this case, the Department stated that Petitioner's starting income for MA purposes was \$1905, which consisted of her monthly RSDI benefits in the amount of \$875.90 and other unearned income from child support for an adult child no longer in the home in the amount of \$1029.74. BEM 503 (October 2015), pp. 6-9; 28; BEM 505 (July 2015), pp. 3-4. An SOLQ and child support search were presented in support of the Department's testimony. (Exhibit A, pop. 23-26, 30-31).

Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorate divisor. BEM 536, pp.1-5. In this case, because Petitioner had two children under age 18 living in the home, the prorate divisor is 4.9. BEM 536, pp. 3-5. After further review of the MA budget and based on the foregoing information, the Department properly determined that the prorated share of Petitioner's income was \$388 and that the total net income was \$1020.10, as at the time the budget was completed, Petitioner was responsible for \$104.90 in insurance premiums. See BEM 536, pp. 1-7. Because Petitioner's net income of \$1020.10 exceeds \$408, the applicable PIL by \$612, the Department calculated Petitioner's \$612 monthly deductible in accordance with Department policy.

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 determined that Petitioner was ineligible for MA under the Ad-Care program based on excess income and determined that she was eligible for MA under the G2C with a monthly deductible.

MSP Case Closure

MSP are SSI-related MA categories and are neither Group 1 nor Group 2. There are three MSP categories: Qualified Medicare Beneficiaries; Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low Income Beneficiaries (ALMB). BEM 165 (January 2016), p. 1. QMB is a full coverage MSP that pays Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2.

With respect to Petitioner's MSP benefits, the Department testified that Petitioner was no longer eligible for MSP benefits because her income exceeded the applicable income limits for the QMB, SLMB, and ALMB categories. Income eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. BEM 165, pp. 7-8. For QMB, the monthly income limit for a group size of one is \$980.83 (100 percent of the Federal Poverty Level (FPL), plus the \$20 disregard), for SLMB the monthly income limit for Petitioner's group size of one is \$1177 (120 percent of FPL plus the \$20 disregard) and for ALMB, the monthly income limit for Petitioner's group size of one is \$1324.13 (135 percent of FPL plus the \$20 disregard). RFT 242 (May 2015), pp. 1-2.

In support of its contention that Petitioner had excess income for MSP benefits, the Department presented SSI Related MA Income Results Budgets showing that Petitioner had unearned income for MA purposes consisting of RSDI and child support and totaling \$1905, which as discussed above was calculated in accordance with Department policy. (Exhibit A, pp. 18-19). Pursuant to BEM 541, the Department testified that it determined Petitioner was entitled to a deduction of \$512 based on the allocation to non-SSI related children, which in Petitioner's case, she has two. BEM 541 (January 2016), pp. 2-3. The Department also properly subtracted the \$20 disregard. BEM 530 (January 2014), pp. 1-2; BEM 541, p 3. After further review, the Department properly determined that Petitioner had net income of \$1373 which is in excess of the applicable income limits for eligibility for MSP benefits under all three categories.

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 closed Petitioner's MSP case on the basis that her income exceeded the limit.

DECISION AND ORDER

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



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **3/1/2016**

Date Mailed: **3/1/2016**

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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:

[REDACTED]
[REDACTED]
[REDACTED]
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