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 18, 2016
MAHS Docket No.: 15-024106
Agency No.: [redacted]
Petitioner: [redacted]

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 telephone hearing was held on February 29, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with his wife, [redacted] and represented himself. Petitioner's Authorized Hearing Representative (AHR) [redacted] was not present for the hearing and Petitioner indicated he wanted to proceed without the AHR. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearings Facilitator. Adnan Baydoun served as Arabic interpreter on behalf of the Department.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) case and determine that his wife was eligible for MA under the Group 2 Caretaker Relatives (G2C) category with a monthly deductible?

FINDINGS OF FACT

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

1. On November 17, 2015, Petitioner submitted an application for MA benefits on behalf of his family.

2. The Department sent Petitioner a Health Care Coverage Determination Notice advising him of its decision with respect to the application. Specifically, that he was eligible for full coverage MA and Medicare Savings Program (MSP) benefits and

that his wife and children were eligible for MA with a monthly deductible. (Exhibit A)

3. On December 21, 2015, Petitioner requested a hearing disputing 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, and MCL 400.105-.112k.

Petitioner requested a hearing disputing the Department's actions with respect to an application for MA benefits submitted on behalf of his family. Although it was initially unclear what negative action Petitioner requested a hearing to dispute, after some discussion, Petitioner clarified that there was no issue remaining with respect to MA for himself or his children and that the only issue remaining was regarding the approval of MA for his wife with a monthly deductible. Although the Health Care Coverage Determination Notice informs Petitioner that his wife's monthly deductible was $1644 for the period of November 1, 2015, to December 31, 2015, and decreasing to $1539 for the period of January 1, 2016, ongoing, the Department stated and the eligibility summary presented indicates that Petitioner's wife was approved for MA under the Group 2 Caretaker Relatives (G2C) program with a monthly deductible of $903 effective November 1, 2015. (Exhibit A; Exhibit B).

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 135 (October 2015), p 1,3; BEM 544 (July 2013), p 1; BEM 545 (January 2016); 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 2016); 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, p.5. Therefore, with respect to Petitioner's wife's deductible, the monthly PIL for her two person fiscal group (Petitioner and his wife) living in Wayne county is $500 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 wife's net monthly income is in excess of the $500, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the monthly income exceeds $500. BEM 545, p 1.

The Department presented a G2C FIP Related MA Adult Net Income Budget which was reviewed to determine if the Department properly calculated the amount of Petitioner's wife's deductible. (Exhibit C). The Department testified that in calculating income for MA purposes, it considered Petitioner's wife's earned income of $400 weekly and unearned income of $695 which consisted of Petitioner's monthly RSDI benefits. BEM 500 (July 2015); BEM 530 (January 2014). Although the Department did not present verification of income, Petitioner and his wife confirmed that the amounts relied on by the Department were correct. The Department is also to deduct $90 as a standard work expense for earned income. There was no evidence presented that Petitioner's group received FIP benefits during the applicable months or that the group was entitled to any other deductions to income. BEM 536, pp. 1-3.

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 and his wife live together and have two children under age 18 living in the home, the prorate divisor is 5.9. BEM 536, pp. 3-5.

Upon further review and in consideration of the steps contained in BEM 536, it appears that the Department considered unearned income for Petitioner in the amount of $619, as opposed to $695, which in this case is more advantageous to the client. Therefore, using unearned income of $619, and the weekly earnings of $400, the Department properly calculated Petitioner's wife's net income of $1403. BEM 536, pp. 1-7. Because Petitioner's wife's net income of $1403 exceeds $500, the applicable PIL by $903, the Department calculated Petitioner's $903 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 calculated Petitioner's wife's monthly deductible.

DECISION AND ORDER

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

ZB/tlf

Zainab Baydoun
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]

Authorized Hearing Rep.

[redacted]

Petitioner

[redacted]

via electronic mail:

[redacted]