



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 4, 2016
MAHS Docket No.: 16-000490
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 March 7, 2016, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Eligibility Specialist.

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 and MSP benefits.
2. In connection with a redetermination, Petitioner's MA eligibility was reviewed. (Exhibit A)
3. In July 2015 Petitioner began receiving child support income.
4. Petitioner confirmed that she receives unearned income from RSDI in the amount of \$1088 and unearned income from a pension of \$196.

5. Prior to July 2015, Petitioner was responsible for paying her own Medicare Premium. Petitioner was notified that she may be eligible for MSP benefits and subsequently enrolled in the MSP through the Department.
6. On September 21, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) informing her that effective November 1, 2015, she was ineligible for MA on the basis that her income exceeded the limit. (Exhibit B)
7. On December 5, 2015, the Department sent Petitioner a Notice advising her that for the period of September 1, 2015, to September 20, 2015, she was eligible for MA with a monthly deductible of \$1143 and that for the period of September 21, 2015, to September 30, 2015, she was eligible for full coverage MA.
8. The December 5, 2015, Notice further informed Petitioner that effective December 1, 2015, her MSP case would be closed on the basis that her income exceeds the limit. (Exhibit C)
9. On January 5, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her MSP and 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.

Petitioner requested a hearing disputing the Department's actions with respect to her MA and MSP benefits. Petitioner raised concerns regarding the closure of her MSP case due to excess income and the transfer of her MA benefits from a full coverage program to a deductible based MA program. Petitioner stated that prior to July 2015, she was not receiving MSP benefits and that she was notified that she may be eligible. It was established that Petitioner subsequently enrolled in and received MSP benefits from July 2015 through the end of November 2015. Petitioner's MSP case closed effective December 1, 2015 due to excess income, and although no documentation was presented in support, Petitioner testified that the Social Security Administration (SSA)

deducted a large portion of her RSDI benefit in December 2015 for the costs of Medicare Premiums for the period prior to the MSP case closure.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (January 2016), p. 1; MPM, Healthy Michigan Plan, § 1.1.

Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105 (October 2014), p. 1.

Additionally, deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (January 2016), p 10. 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 (January 2016), pp. 1-5; BEM 166, pp 1-2; BEM 544 (July 2013), p 1; RFT 240 (December 2013), p 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one (Petitioner) living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. 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 her monthly income exceeds \$375. BEM 545, p 1.

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 2015), 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. QMB coverage begins the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is not available for past months or the processing month. SLMB coverage is available for retro MA months and later months. ALMB coverage is available for retro MA months and later months; however, not for a time in a previous calendar year. BEM 165, pp. 3-4. The income limits for the MSP categories are found in RFT 242 (

In this case, the Department could not identify which MA program Petitioner was approved for prior to the redetermination and could not identify which MA program Petitioner was transferred to after the redetermination was completed. The Department

testified that after including Petitioner's child support income, she was no longer income eligible for a full coverage MA program or MSP benefits and that she would only be eligible for MA with a deductible. Petitioner confirmed receiving child support beginning in July 2015; however, Petitioner disputed the amounts relied upon by the Department and stated that her child support is inconsistent and is not the same each month.

The Department could not recall when Petitioner's MA coverage was transferred to the deductible program however, and did not know the correct amount of Petitioner's deductible. Petitioner stated that her case was transferred to a deductible in July 2015, as she went to the doctor and was informed that she did not have active benefits. The Department confirmed that it did not notify Petitioner of the transfer of her MA coverage prior to sending her the Notice on December 5, 2015. Although the Department presented some evidence concerning Petitioner's income, the Department failed to produce a MA budget showing how the deductible in Petitioner's case was calculated. Furthermore, the Department did not present any budget or other evidence in support of its position that Petitioner had excess income for MSP benefits and could not recall or identify which MSP category Petitioner was receiving prior to the case closure.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's MA benefits and closed her MSP case effective December 1, 2015.

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. Redetermine Petitioner's MA eligibility from July 1, 2015, ongoing;
2. Provide Petitioner with MA coverage under the most beneficial category from July 1, 2015, ongoing and in accordance with Department policy;
3. Reinstate Petitioner's MSP case effective December 1, 2015;

4. Provide Petitioner with MSP benefits she was eligible to receive but did not, if any, from December 1, 2015, ongoing; and
5. Notify Petitioner in writing of its decision.



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

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