



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: May 3, 2016  
MAHS Docket No.: 16-003224  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **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 April 25, 2016, from Detroit, Michigan. Petitioner was represented by [REDACTED] his daughter and authorized hearing representative (AHR). [REDACTED], Petitioner's wife, was present at the hearing but did not participate. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Hearing Facilitator.

### **ISSUE**

Did the Department properly determine that Petitioner and his wife were eligible for Medicaid (MA) subject to a monthly \$1094 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. Petitioner is married, and he and his wife live in Macomb County.
2. Petitioner and his wife are ongoing recipients of MA benefits.
3. Petitioner receives \$847.90 in gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits; his wife is eligible for \$482.90 in gross monthly RSDI income (Exhibits D and E). Petitioner also receives a pension totaling \$6834.72 annually (Exhibit C).

4. The Social Security Administration (SSA) withholds \$104.90 from Petitioner's and from his wife's RSDI benefits to pay for their Part B Medicare premium. Petitioner also pays \$33.20 in monthly Medicare Part D premiums.
5. On February 23, 2016, the Department received Petitioner's written request for hearing disputing the Department's denial of his and his wife's MA eligibility.

### **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 on February 23 2016 concerning his and his wife's MA deductible. The Department explained that Petitioner and his wife had been recipients of MA subject to a deductible since June 2015. Therefore, the issue presented at the hearing was limited to the calculation of the current deductible amount. See BAM 600 (October 2015), p. 4 (providing that a client is eligible for a hearing to dispute the restrictions under which benefits or services are provided).

The evidence at the hearing established that Petitioner, who is ■ years old, and his wife, who is ■ years old, received Group 2 SSI-related (G2S) MA, which is available to individuals over age 65 who, because of excess income, are not eligible for full-coverage MA coverage but are eligible to MA subject to a deductible. See BEM 105 (October 2014), p. 1; BEM 166 (July 2013), p. 1.

The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's county of residence and fiscal group size. BEM 105, p. 1; BEM 166, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of two living in Macomb County, is \$541. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner and his wife's monthly net income (less allowable needs deductions) is in excess of \$541, they may become eligible for MA assistance under the deductible program, with

the deductible equal to the amount that their monthly net income, less allowable deductions, exceeds \$541. BEM 545 (January 2016), p. 2.

The Department presented a SSI-related Medicaid budget for Petitioner and his wife showing how the deductible was calculated (Exhibit A). The budget showed gross monthly unearned income totaling \$1898. The Department testified that this was based on Petitioner's \$847.90 in gross monthly RSDI income; his wife's \$482.90 in gross monthly RSDI income; and Petitioner's \$569.56 in gross monthly pension income (based on his annual receipt of \$6834.72 in pension benefits, as verified by federal tax form 1099-R sent to Petitioner (Exhibit C), divided by 12).

At the hearing, the AHR testified that Petitioner's wife's monthly RSDI benefits had decreased due to the Social Security Administration's (SSA's) recoupment of an overpayment. Department policy provides that amounts deducted by an issuing agency to recover a previous overpayment or in eligible payment are not part of gross income and are excluded as income unless a portion of the overpayment (that is normally countable) was excluded income when received. BEM 500 (January 2016), p. 6.

In this case, the AHR presented documentation showing that petitioner's wife's monthly benefits were reduced by \$30 beginning September 2015 (Exhibit 1). Therefore, Petitioner's wife's gross income for MA purposes was \$452.90. However, although the AHR contended that she had submitted to the Department the letter from SSA showing the reduced benefits, she was unable to specify when any verification was provided to the Department. The Department denied receiving any verification of the reduced benefits, and the current SOLQ did not indicate that Petitioner's wife's RSDI income was being reduced by SSA due to an overpayment (Exhibit E). When electronic verification is not available or inconsistent with client statement, the client has primary responsibility for obtaining verification. BEM 500, p. 13. In light of the lack of evidence that the Department was aware of the decreased RSDI benefits, the Department properly considered \$482.90 for Petitioner's wife's RSDI income. The AHR is advised to provide verification of the reduced RSDI benefits to the Department so that the deductible may be recalculated to take in to consideration Petitioner's wife's reduced gross RSDI income; this reduced income could affect the calculation of the deductible for *future* months.

Based on the information available to the Department at the time it calculated the deductible for April 2016 ongoing, the Department properly determined gross income by totaling Petitioner's \$847.90 RSDI income; his wife's \$482.90 RSDI income; and Petitioner's \$569.56 pension totals. This sum results in \$1898 (when cents are dropped) in gross monthly household income. When the \$1898 gross income figure is reduced by a \$20 disregard, Petitioner and his wife have net monthly income of \$1878. See BEM 541 (January 2016), p. 3. Net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or home for the aged. BEM 544, pp. 1-3. The SOLQs for Petitioner and his wife show that they are each responsible for their \$104.90 Part B Medicare premium,

and the Department testified that Petitioner also verified a \$33.20 monthly Medicare Part D premium. Medicare premiums are allowable need deductions. See BEM 544, pp. 1-2. The AHR testified that there were no additional health insurance premiums paid by Petitioner or his wife. Therefore, Petitioner and his wife had monthly health insurance premiums totaling \$243, as shown on the budget. Because there was no evidence that either Petitioner or his wife were residing in an adult foster care home or home for the aged, they were not eligible for any remedial service allowances. See BEM 544, p. 2. Petitioner and his wife's \$1878 in net income reduced by \$243, the only allowable needs deduction, results in countable income of \$1635. Petitioner's countable income of \$1635 reduced by the \$541 PIL results in excess income of \$1094. Therefore, the deductible amount was properly calculated at \$1094 monthly.

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 Petitioner and his wife's MA deductible amount.

#### **DECISION AND ORDER**

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

ACE/tlf



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**Alice C. Elkin**

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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