



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 25, 2016
MAHS Docket No.: 16-004267
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, an in-person hearing was held on [REDACTED] from [REDACTED] Michigan. The Petitioner was represented by [REDACTED], her Authorized Hearing Representative (AHR). The Petitioner also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly determine the Petitioner's Medical Assistance (MA) and the correct spenddown deductible amount?

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 Petitioner was an ongoing recipient of MA Ad Care with no spenddown deductible. The Petitioner receives Retirement, Survivors and Disability Insurance (RSDI), and thus, is disabled.
2. The Petitioner was found eligible for Ad Care due to the Department failing to budget any income for the Petitioner, which was incorrect. The Department failed to include any income when determining the Petitioner's medical eligibility during the period [REDACTED]. Exhibit 3, p. 1.

3. The Department issued a Health Care Coverage Determination Notice on [REDACTED], imposing a \$ [REDACTED] monthly deductible spenddown on Petitioner's MA beginning [REDACTED]. Exhibits 4 and 5.
4. The Petitioner receives \$ [REDACTED] in RSDI income from the Social Security Administration (SSA). The amount of RSDI was confirmed by the Petitioner at the hearing as correct. Exhibit 2.
5. The Petitioner also receives unearned income as a result of a pension in the amount of \$ [REDACTED]. Exhibits 2 and 6.
6. The Petitioner also pays a Part B premium for her Medicare in the amount of \$ [REDACTED]. The Department did not include the Part B premium in the MA budget. Exhibit 2.
7. The Petitioner also pays a Part D premium in the amount of \$ [REDACTED]. The Department did not include the Part D premium in the MA budget.
8. The Petitioner sometimes receives child support arrearage payments.
9. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's action.

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 imposed an MA spenddown in the amount of \$ [REDACTED] changing the Petitioner's MA to full coverage Ad Care to a spenddown Supplemental Security Income (SSI)-Related MA coverage. The Department correctly included the Petitioner's unearned income received from a pension and RSDI, which totaled \$ [REDACTED]. This amount was confirmed by the Petitioner at the hearing as correct. The Department presented an SSI-related MA (Adults) – income budget result, the budget it prepared to determine the spenddown. The budget presented did not include

deductions for insurance premiums for Medicare Part B in the amount of \$ [REDACTED] and a Part D premium in the amount of \$ [REDACTED]. These premiums were reported by the Petitioner at the hearing. Exhibit 2.

In addition, Petitioner testified that from time to time she receives child support arrearages for her son. Department policy found in BEM 503 requires that Child Support arrearages are countable income for SSI-related MA. BEM 503 (April 1, 2016), p. 8. Thus, if the Petitioner receives child support arrearages, she must report the income received within 10 days to the Department so that the income can be considered when calculating her MA deductible. As the income is intermittent, the Petitioner should discuss this fact with her caseworker so that a correct determination can be made as to the amount of income and whether it is or will be ongoing.

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA Protected Income Levels (PIL) based on their shelter area and fiscal group size, are eligible for MA coverage under the deductible program with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; BEM 545 (July 2011), p. 2; RFT 240 (July 2007), p. 1.

In this case, the monthly PIL for an MA group of one (Petitioner) living in [REDACTED] County is \$ [REDACTED]. BEM 211 (November 2012), p. 5; RFT 200 (July 2007), p. 1; RFT 240, p. 1. Therefore, Petitioner's MA coverage is subject to a deductible if Petitioner's monthly net income, based on her gross income, is greater than \$ [REDACTED].

In this case, the Department produced an SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. Exhibit 4. Petitioner confirmed her monthly gross income amount from RSDI and pension was correctly calculated as \$ [REDACTED]. Thus, the Department properly concluded that Petitioner's gross income was \$ [REDACTED]. This amount is reduced by a \$ [REDACTED] disregard, resulting in a net unearned income of \$ [REDACTED]. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 5. Other expenses were presented at the hearing by the Petitioner for the Medicare Part B premium in the amount of \$ [REDACTED] which was not included in the MA budget and should have been deducted as an insurance expense. When reviewing and recalculating the Petitioner's MA, the Department should have reviewed the State Online Query (SOLQ), which reports SSA income and insurance premiums. As the Medicare Part B premium is shown on the SOLQ, the Department must recalculate the spenddown for [REDACTED] to include the Part B premium as an expense. The Part D premium is not shown on the SOLQ, but is also an insurance expense, which must be considered by the Department and which is an insurance expense; and thus, this amount must be deducted on all future budgets. As the Part D expense it is not readily available to the Department by looking at the SOLQ, and based upon the evidence was not reported to the Department by the Petitioner, the deduction of this insurance expense should be applied and deducted beginning [REDACTED]. The

final step in determining the spenddown amount is to deduct the \$ [REDACTED] PIL from the net income. The Department demonstrated that it used the correct PIL.

Because the Department in the budget presented did not deduct the Part B premium, the Department must recalculate the budget for [REDACTED] to include this amount as an insurance expense. As regards the Part D premium, the Department must deduct this premium for all months after [REDACTED] as this insurance expense was not previously reported by the Petitioner.

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 did not act in accordance with Department policy when it failed to deduct the Medicare Part B premium.

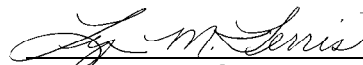
DECISION AND ORDER

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. The Department shall recalculate the Petitioner's SSI-related Medicaid budget to include the Medicare Part B premium of \$ [REDACTED] for [REDACTED] in the spenddown calculation.
2. The Department shall recalculate the SSI-related Medicaid spenddown budget for [REDACTED] ongoing to include the Medicare Part D premium of [REDACTED].
3. The Department shall provide written notice to the Petitioner and the Petitioner's AHR of its determination and recalculation of the spenddown amount.

LMF/jaf



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]

Authorized Hearing Representative

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]