



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 18, 2016
MAHS Docket No.: 16-004719
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 May 11, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator. [REDACTED] served as translator during the hearing

ISSUE

Did the Department properly calculate Petitioner's Medical Assistance (MA) deductible for March 2016 to May 2016?

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 ongoing recipient of MA - Group 2 Spend-Down (G2S) benefits.
2. Petitioner's group size is one and he resides in Wayne County.
3. Petitioner receives \$926 in monthly Retirement, Survivors and Disability Insurance (RSDI) income and \$197.16 in monthly pension income. See Exhibit A, pp. 6-9.
4. Petitioner's MA deductible for March 2016 to April 2016 was \$420. See Exhibit B, pp. 1-2.

5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying Petitioner that his MA – G2S deductible would be \$420 effective May 1, 2016, ongoing. See Exhibit A, pp. 12-17. However, Petitioner’s MA – G2S budget for May 2016 indicated that his deductible increased to \$623. See Exhibit A, p. 5.
6. On [REDACTED], Petitioner filed a hearing request, disputing his MA deductible and Food Assistance Program (FAP) benefits. See Exhibit A, p. 3.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

Preliminary matters

First, Petitioner also requested a hearing in which he disputed his FAP benefits. Shortly after commencement of the hearing, Petitioner indicated that he is no longer disputing his FAP benefits. As such, Petitioner’s FAP hearing request is DISMISSED.

Second, Petitioner indicated that he was disputing his MA deductible dating back to last year (2015). However, the undersigned lacks the jurisdiction to address Petitioner’s deductible dating back to 2015. See BAM 600 (October 2015), pp. 1-6.

Third, a review of Petitioner’s hearing request finds that he was disputing his \$420 deductible, which was the amount of his deductible for March 2016. Thus, the undersigned addresses Petitioner’s MA deductible beginning March 2016 below. It should also be noted that Petitioner testified that he was disputing his MA deductible

effective March 2016. Furthermore, on [REDACTED], the Department sent Petitioner a determination notice notifying Petitioner that his MA – G2S deductible would be \$420 effective [REDACTED], ongoing. See Exhibit A, pp. 12-17. Petitioner’s hearing request is dated after this determination notice. See Exhibit A, p. 3. However, during the hearing, it was discovered that Petitioner’s May 2016 deductible increased to \$623. See Exhibit A, p. 5. It’s unclear when this change occurred. Nonetheless, based on the above information, the undersigned will address whether the Department properly calculated Petitioner’s MA – G2S deductible from March 2016 to May 2016.

MA – G2S deductible for March 2016 to April 2016

G2S is a Social Security Income (SSI)-related Group 2 MA category. See BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

In this case, the Department presented the MA-G2S budget for the benefit period of March 2016 to April 2016. See Exhibit B, pp. 1-2.

First, the Department properly calculated Petitioner’s gross total unearned income to be \$1,123. See Exhibit B, pp. 1-2. This amount consisted of Petitioner’s monthly \$926 RSDI income and his monthly pension/retirement income of \$197.16. See Exhibit A, pp. 6-9 and BEM 503 (October 2015 and April 2016), pp. 27-28 (The Department counts the gross benefit amount of RSDI as unearned income. The Department counts the gross benefit as unearned income for other retirement income including annuities, private pensions, military pensions, and state and local government pensions).

Second, the Department then properly subtracted the \$20 disregard to establish Petitioner’s total net unearned income of \$1,103. BEM 541 (January 2016), p. 3.

Third, the Department offers additional deductions in determining the calculation of the MA deductible, which includes guardianship/conservator expenses, insurance premiums, remedial services, and ongoing medical expenses. See Exhibit B, pp. 1-2. In this case, the Department provided Petitioner with a \$307.60 ongoing medical expense deduction, which resulted in his countable income being \$795.40. See Exhibit B, pp. 1-2. However, the undersigned discovered during the hearing that the Department, in error, kept budgeting this ongoing medical expense although it was only a one-time medical expense for an inpatient/hospitalization/nursing care bill that occurred in 2014. Petitioner testified that he did have a hospitalization in 2016, but has not yet been billed for the services. Nevertheless, this calculation was a benefit to the Petitioner because it resulted in a lower MA deductible for Petitioner and the Department ultimately removed this ongoing medical expense for May 2016, ongoing.

It should also be noted that Petitioner testified that he pays \$125 in monthly services for someone to clean his house and do his laundry. It’s unclear if such an expense can be factored into the budget, i.e., remedial services deduction and/or personal care services allowable medical expense (See BEM 545 (January 2016), pp. 20-21), because

Petitioner testified that this was the first time he was reporting such an expenses. Thus, the Department properly did not take this expense into consideration as Petitioner first reported it at the hearing. See BAM 105 (April 2016), pp. 11-12 (Responsibility to Report Changes).

Fourth, 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), p. 1; BEM 166, p. 2; BEM 544 (July 2013), p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2 and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$375, may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the PIL. BEM 545, p. 1.

Based on the above policy, Petitioner's countable income of \$795.40 for MA purposes exceeds the monthly protected income level of \$375 by \$420. See Exhibit B, pp. 1-2. Thus, the Department properly calculated Petitioner's MA – G2S deductible to be \$420 for March 2016 to April 2016, in accordance with Department policy. It should be noted that Petitioner met his deductible for March 2016. See Exhibit B, pp. 1 and 3-6.

MA – G2S deductible for May 2016

In this case, the Department presented the MA-G2S budget for the benefit period of May 2016. See Exhibit A, p. 5.

First, the Department properly calculated Petitioner's gross total unearned income to be \$1,123. See Exhibit A, p. 5.

Second, the Department then properly subtracted the \$20 disregard to establish Petitioner's total net unearned income of \$1,103. BEM 541, p. 3.

Third, the Department offers additional deductions in determining the calculation of the MA deductible, which includes guardianship/conservator expenses, insurance premiums, remedial services, and ongoing medical expenses. See Exhibit A, p. 5. As stated previously, the Department removed the ongoing medical expenses in the amount of \$307.60 effective May 2016. However, the May 2016 budget did include a deduction for Petitioner's Medicare Part B premium in the amount of \$104.90. But, it was discovered that Petitioner was not responsible for his insurance premium as the State of Michigan pays for his premium. See Exhibit A, p. 6 and see BEM 544, pp. 1-2. Again, this calculation error by the Department was a benefit to the Petitioner because it resulted in a lower MA deductible. It should be noted that Petitioner's deductible might increase for future benefit periods as he is not responsible for his insurance premium.

Based on the above information, the Department calculated Petitioner's total countable income to be \$998.10. See Exhibit A, p. 5. Moreover, Petitioner's countable income of

\$998.10 for MA purposes exceeds the monthly protected income level of \$375 by \$623. See Exhibit A, p. 5. Thus, the Department properly calculated Petitioner's MA – G2S deductible to be \$623 for May 2016, in accordance with Department policy.

DECISION AND ORDER

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 properly calculated Petitioner's MA – G2S deductible from March 2016 to May 2016.

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

IT IS ALSO ORDERED that Petitioner's FAP hearing request is **DISMISSED**.

EF/hw



Eric Feldman

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]

[REDACTED]

Petitioner

[REDACTED]