



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: July 15, 2016  
MAHS Docket No.: 16-006403  
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, a telephone hearing was held on [REDACTED], [REDACTED] from Detroit, Michigan. The Petitioner was represented by himself. An [REDACTED] translator, [REDACTED], also appeared on behalf of the Petitioner. 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) spenddown 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. The Petitioner applied for MA on [REDACTED], seeking medical assistance for himself, his spouse and child for an MA group of three persons.
2. A Verification Checklist (VCL) was sent to the Petitioner on [REDACTED], with a [REDACTED], due date. The VCL requested verification of citizenship for the Petitioner. Exhibit 2.
3. A Health Care Coverage Determination Notice dated [REDACTED], was sent to the Petitioner advising him that he was eligible effective [REDACTED] for full

coverage MA. His spouse was found not eligible for failure to verify information as was his son. Exhibit 3.

4. On [REDACTED], the Department sent a Health Care Coverage Determination Notice finding the Petitioner eligible for full coverage MA effective [REDACTED], through [REDACTED]. The notice found the Petitioner's spouse eligible for emergency services only (ESO) as she had been a permanent resident of the U.S. for less than five years having entered the country in [REDACTED]. The Petitioner's son was eligible for full coverage MA effective [REDACTED], ongoing. The same notice found the Petitioner ineligible effective [REDACTED]. Exhibit 6.
5. The Petitioner reapplied for MA on [REDACTED], for Qualified Medicare Benefits (QMB). Exhibit 7.
6. The Petitioner receives \$ [REDACTED] in Social Security Administration Retirement, Survivors and Disability Insurance (RSDI) benefits; and his wife and son each received \$ [REDACTED] monthly for a total monthly income of \$ [REDACTED]. The Petitioner pays a Medicaid Part B premium of \$ [REDACTED]. Exhibit 8.
7. The Department issued a Health Care Coverage Determination Notice dated [REDACTED], finding Petitioner eligible for MA with a deductible of \$ [REDACTED] monthly, effective [REDACTED]. Exhibit 12.
8. The Eligibility Summary provided by the Department demonstrated the Petitioner was eligible for MA subject to a deductible; his son was eligible for other healthy kids; and his spouse is eligible for ESO MA. Exhibit 12.
9. The Department sent the Petitioner a VCL with the [REDACTED], due date requesting verification of employment and a checking account bank statement. The Petitioner timely provided the information to the Department. Exhibit 9.
10. The Petitioner filed a Request for Hearing on [REDACTED].

### **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 Petitioner requested a hearing due to the Department's imposition of a \$ [REDACTED] spenddown deductible. Originally, when the Petitioner first applied for MA, he was found eligible for full coverage MA because the Department did not include any of his unearned income from RSDI or his wife's income when calculating income eligibility. The Department ultimately found the Petitioner eligible for Supplemental Security Income (SSI)-related MA with a spenddown due to the fact that he received unearned income from RSDI in the amount of \$ [REDACTED] and his wife received RSDI of \$ [REDACTED] for a total of \$ [REDACTED]. The Department presented an SSI-related spenddown budget at the hearing, which was reviewed with the Petitioner. The Petitioner confirmed the income used by the Department as correct. Exhibits 11 and 8. After a review of the budget, it was determined by the undersigned that the spenddown amount imposed by the Department was incorrect. The basis for this determination will be explained hereafter.

The Department presented an SSI-related Medicaid (Adults) – income budget result, the budget it prepared to determine the spenddown. The budget presented did include deductions for insurance premium for Medicare Part B in the amount of \$ [REDACTED] Exhibit 10.

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 two (Petitioner and his wife) 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 his gross income, is greater than \$ [REDACTED]

The Department included a PIL of \$ [REDACTED] which is the PIL for a group of three members, which is incorrect. BEM 211 provides that an SSI-related child is in his own group and is a group of one. BEM 211 (January 1, 2016) p. 7. For an SSI-related MA adult, the adult's fiscal group consists of the adult and his spouse; thus, the Petitioner's group size would be a group of two and the PIL should be \$ [REDACTED] BEM 211, p. 8. The Department correctly deducted a \$ [REDACTED] unearned income general exclusion, which was correct and in accordance with Department policy. See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 5. However, given that the Department used the incorrect PIL, the spenddown deductible as determined by the Department is incorrect and must be recalculated.

As regards the Peititoner's wife, the Department correctly determined that she was eligible for ESO based upon her permanent resident status as she had not been a permanent resident of the United States for five years or more having entered the country in [REDACTED]. The Department also correctly determined that the Petitioner's son is eligible for Other Healthy Kids.

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 improperly calculated the Petitioner's spenddown amount (deductible) and must recalculate the deductible.

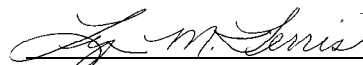
### **DECISION AND ORDER**

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 MA spenddown deductible to include the correct protected income level.
2. The Department shall provide written notice to the Petitioner of its determination of the Petitioner's deductible spenddown amount.

MLFjaf/



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**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]

**Petitioner**

[REDACTED]

**cc:**

[REDACTED]