



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: August 26, 2016
MAHS Docket No.: 16-008626
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. 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 July 28, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with her Home Help Provider, [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Eligibility Specialist and [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits and calculate the amount of her MA 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 an ongoing recipient of MA benefits.
2. On December 14, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective January 1, 2016, she was eligible for MA with a monthly deductible of [REDACTED]. (Exhibit A)
3. The Eligibility Summary indicates that: from April 1, 2016, to May 31, 2016, Petitioner's monthly deductible was increased to [REDACTED]; from June 1, 2016, to

June 30, 2016, the deductible decreased to [REDACTED]; and effective July 1, 2016, the MA deductible was increased back up to [REDACTED]. (Exhibit B)

4. The Department did not send Petitioner a Health Care Coverage Determination Notice or other eligibility notice to inform her of the changes in her deductible from April 1, 2016, to July 1, 2016, ongoing.
5. Petitioner receives monthly income from Retirement, Survivors, and Disability Insurance (RSDI).
6. Petitioner was also a recipient of Adult Home Help Services (HHS) through the Department. (Exhibit 2)
7. On April 26, 2016, the Department sent Petitioner an Advanced Negative Action Notice informing her that effective May 31, 2016, her HHS benefits would be terminated, as her MA spenddown/deductible had not been met since December 2015. (Exhibit 2)
8. On May 3, 2016, and June 15, 2016, Petitioner submitted some medical expenses to the Department to be applied towards her monthly deductible. (Exhibit 1)
9. On June 15, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her MA case.

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).

As a preliminary matter, Petitioner raised concerns at the hearing with respect to the closure of her HHS case, the Advanced Negative Action Notice dated April 27, 2016, and stated that her HHS provider has not been paid since January 2016. Petitioner was informed that the hearing request as it relates to the issue concerning the closure of her HHS case would be forwarded to the appropriate agency and scheduled for a separate administrative hearing. As such, this Hearing Decision will not address the closure of Petitioner's HHS case or the concern regarding Petitioner's Home Help Provider not receiving payment since January 2016.

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, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Petitioner raised concerns with respect to the MA deductible and stated that she was transferred to a deductible based MA category in January 2016. It was established at the hearing that the Department notified Petitioner of the change in her MA eligibility and the imposition of the deductible effective January 1, 2016, on December 14, 2015, through a Health Care Coverage Determination Notice. (Exhibit A).

Petitioner, who receives RSDI, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (January 2016), p. 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, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2013), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (July 2013), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p.2. Petitioner has a MA fiscal group of one. BEM 211 (January 2016), p. 5. Effective April 1, 2016, a MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$990, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2016), p. 1.

With respect to calculating Petitioner's income, the Department testified that because there was a discrepancy between the information contained in the SOLQ (which showed Petitioner had both \$0 in RSDI as well as ██████ in RSDI) and the BENDEX/SDX (which showed that Petitioner had gross RSDI of ██████), it recently requested that Petitioner provide a RSDI award letter from the Social Security Administration (SSA) to verify her monthly income. The Department stated however, that although Petitioner's MA case is currently pending exact verification of income, as of the hearing date, it relied on the information from the BENDEX/SDX and used RSDI of ██████ to determine Petitioner's MA eligibility. At the hearing, however, Petitioner testified that she receives monthly RSDI of ██████. As such, the Department properly determined that based on Petitioner's income from RSDI, she was ineligible for MA benefits under a Group 1 MA program without a deductible, as her net income (based on the information provided by Petitioner and the Department during the hearing) is in excess of the income limit for a fiscal group size of one. Thus, the Department also

properly determined that Petitioner would be eligible for MA under a Group 2 category, subject to a monthly deductible based on her income.

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, pp. 1-2; 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 living in ██████ County is ██████ 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 ██████, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds ██████. BEM 545, p 1.

Although the Department failed to produce a SSI-Related MA budget showing how the ██████ deductible in Petitioner's MA case was calculated, the Department explained as discussed above, that it considered ██████ in RSDI income. The Department testified that the only applicable deduction to income was the ██████ unearned income general exclusion and thus determined that Petitioner's countable income for MA purposes exceeded the monthly PIL of ██████ by ██████, which it determined to be the deductible amount. However, also as discussed above, because the Department conceded that there were discrepancies with respect to the exact amount of Petitioner's income and the amount of a deductible is dependent among other things, on income, the Department failed to establish that it properly calculated Petitioner's monthly deductible.

A review of the eligibility summary during the hearing indicated that the Department has made changes to and recalculated Petitioner's MA deductible several times since January 2016. The Department testified however, that it did not send Petitioner any eligibility notices advising her of the change in her MA deductible. Therefore, because Petitioner was not previously notified that her deductible would be increased to ██████ beginning April 1, 2016, the Department will be ordered to recalculate Petitioner's MA deductible effective April 1, 2016, as that is also within the 90 day period prior to Petitioner's June 15, 2016, hearing request. (See BAM 600 October 2015).

Additionally, there was some evidence presented at the hearing that Petitioner submitted medical expenses to be applied to her MA deductible for the applicable months. Although the Department confirmed receiving the expenses, it was unclear if the Department processed the expenses and applied them towards Petitioner's MA deductible for the applicable months as required by Department policy. (See BEM 545 July 2016).

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 properly determined that Petitioner was eligible for MA under the G2S program with a monthly deductible, however, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's MA 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. Recalculate Petitioner's MA deductible for April 1, 2016, ongoing;
2. Process Petitioner's medical expenses incurred and apply them to her MA deductible for the applicable months;
3. Pay Petitioner's MA provider and supplement Petitioner for any MA benefits that she was eligible to receive but did not from April 1, 2016, ongoing, and
4. Notify Petitioner of its decision in writing.

ZB/tlf



Zainab A. 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

DHHS

[REDACTED]

Petitioner

[REDACTED]

Via Electronic Mail:

[REDACTED]