



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: September 27, 2016
MAHS Docket No.: 16-009443
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 August 29, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED], Authorized Hearing Representative (AHR) from [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Supervisor.

ISSUE

Did the Department properly process Petitioner's application for Medical Assistance (MA) and Medicare Savings Program (MSP) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On or around May 27, 2016, an application for MA and MSP benefits was submitted on behalf of Petitioner.
2. Petitioner is [REDACTED] years old, disabled, enrolled in Medicare and is not the parent/caretaker of a minor child.
3. Petitioner resides in a licensed adult foster care home. (Exhibit 1)

4. Petitioner receives monthly unearned income from Retirement Survivors Disability Insurance (RSDI) benefits in an unconfirmed amount.
5. On June 23, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising that effective June 1, 2016, he was eligible for MA with a monthly deductible of [REDACTED]. (Exhibit A)
6. The Notice further advises Petitioner that he was ineligible for MA for June 1, 2016, ongoing, on the basis that his income exceeds the limit for the program. The Department indicated that Petitioner was denied MSP benefits on the basis that his income was in excess of the limit. (Exhibit A)
7. On June 29, 2016, [REDACTED] requested a hearing on Petitioner's behalf, disputing the Department's actions with respect to the MA application submitted. (Exhibit 1)

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, Petitioner's AHR stated that the hearing was requested to dispute the Department's actions with respect to an application for MA and MSP benefits submitted on or around May 27, 2016. The Department testified that after processing the application, it determined that Petitioner was ineligible for MSP benefits under any category, as his income was in excess of the limit. The Department further testified that it determined that Petitioner was eligible for MA under the Group 2 Aged Blind Disabled (G2S) category with a monthly deductible of [REDACTED]. (Exhibit A)

Petitioner, who is [REDACTED] old, has no minor children and receives RSDI based on a disability, 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, such as the G2S program 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. Based on the evidence presented, 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.

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 a MA group of one (Petitioner) living in ██████ County is \$375 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 \$375, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$375. BEM 545, p 1.

At the hearing, the Department failed to produce an Ad-Care budget showing how it determined that Petitioner had excess income for the Ad-Care program or a SSI-Related MA budget showing how the ██████ deductible was determined for Petitioner's G2S eligibility. The Department could not explain which income amounts were relied upon and there was no supporting income documentation presented at the hearing. Petitioner's AHR stated that Petitioner receives monthly RSDI income in the amount of ██████, however, there was no documentation to verify the income. There was also no information provided by the Department concerning the applicable deductions to income that Petitioner was eligible to receive, if any. The Department conceded at the hearing that it was necessary to reprocess the MA application and to review Petitioner's MA eligibility. The Department also stated that information regarding Petitioner's enrollment in Medicare Part A needed to be added to his case file online, as it could impact his MA and MSP eligibility.

With respect to Petitioner's MSP eligibility, the Department stated that he was ineligible based on excess income. MSP are SSI-related MA categories and are neither Group 1

nor Group 2. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low Income Beneficiaries (ALMB). BEM 165 (January 2016), p. 1. QMB is a full coverage MSP that pays: Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2. QMB coverage begins the calendar month after the processing month. The processing month is the month during which an eligibility determination is made. QMB is not available for past months or the processing month. SLMB coverage is available for retro MA months and later months. ALMB coverage is available for retro MA months and later months; however, not for a time in a previous calendar year. BEM 165, pp. 3-4. Income eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242, pp1-2; BEM 165, pp. 7-8.

At the hearing, the Department presented a SSI Related MA Income Results Budget for only the ALMB category showing that it determined Petitioner's unearned income for MSP purposes was [REDACTED]. (Exhibit B). As referenced above, the Department was unable to explain how the income was determined, and could not otherwise explain how Petitioner was determined to have excess income for MSP purposes. Again, the Department conceded that reprocessing of Petitioner's MA and MSP application was needed to ensure that accurate income information is being relied upon.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's May 27, 2016, application for MA and MSP benefits.

Accordingly, the Department's MA and MSP decisions are **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. Register and process Petitioner's May 27, 2016, MA and MSP application to determine his eligibility for MA and MSP benefits under the most beneficial category from the application date, ongoing;
2. Provide Petitioner with any MA and MSP coverage that he was entitled to receive but did not from the application date, ongoing; and

3. Notify Petitioner and his AHR in writing of its decision.



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]
[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Email:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]