



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: September 23, 2016  
MAHS Docket No.: 16-009813  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 September 12, 2016, from Detroit, Michigan. Petitioner appeared and was represented by ██████████, her Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by ██████████, Assistance Payment Worker.

**ISSUE**

Did the Department properly process Petitioner's Medicaid (MA) case?

**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 with MA subject to a monthly ██████████ deductible (Exhibit B).
2. Petitioner receives gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of ██████████ based on a disability and ██████████ in monthly pension benefits (Exhibit A)
3. Petitioner is a Medicare recipient.

4. The Department pays Petitioner's Part B Medicare premium to the Social Security Administration (SSA) (Exhibit A).
5. On [REDACTED] and [REDACTED] Petitioner submitted medical expense bills to the Department for services incurred in June 2016 and July 2016 (Exhibit A).
6. On July 5, 2016, the Department received Petitioner's request for hearing disputing the Department's failure to activate MA coverage for June and July 2016 medical expenses.

### **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.

Petitioner expressed concerns about the application of the deductible to activation of her MA coverage and the payment of submitted bills. Petitioner's MA coverage is subject to a [REDACTED] monthly deductible. Petitioner, who receives RSDI benefits based on a disability and is a Medicare recipient, is eligible for SSI-related MA, which is Medicaid for disabled individuals. BEM 105 (July 2016), p. 1; BEM 260 (July 2015), pp. 1-2.

In determining the SSI-related MA coverage Petitioner is eligible for, the Department must determine her MA fiscal group's net income for MA purposes. Because Petitioner is not married, her fiscal group size for SSI-related MA purposes is one. BEM 211 (January 2016), p. 8. Petitioner's gross monthly income of [REDACTED] consists of her [REDACTED] monthly RSDI income and [REDACTED] monthly pension income. When her gross monthly income is reduced by a [REDACTED] disregard, Petitioner has net income of [REDACTED]. See BEM 541 (January 2016), p. 3. Petitioner's net monthly income exceeds the [REDACTED] limit applicable to a one-person fiscal group for Ad-Care eligibility, the SSI-related MA category that provides for full-coverage MA. BEM 163 (July 2013), p. 1; RFT 242 (April 2016), p. 1. Therefore, the Department acted in accordance with Department policy when it concluded that Petitioner was ineligible for full-coverage MA.

Clients who are ineligible for full-coverage MA because of excess income are eligible for Group 2 SSI-related (G2S) MA coverage, which provides for MA coverage with a deductible. BEM 105, p. 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's county of residence and fiscal group size. BEM 105, p. 1; BEM 166 (July 2013), p. 2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1.

The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in ██████ County, is ██████. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of ██████, Petitioner may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds ██████ BEM 545 (July 2016), pp. 2-3.

In this case, the Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit B). As discussed above, Petitioner's net income for MA purposes is ██████. Net income is reduced by health insurance premiums paid by the MA group and by remedial service allowances for individuals in adult foster care or home for the aged. BEM 544, pp. 1-3. The Department presented evidence that it paid Petitioner's Part B Medicare premiums, and Petitioner testified that she had no other health insurance premiums she was responsible to pay. Because Petitioner did not reside in adult foster care or home for the aged, she was also not eligible for any other allowable need expenses. Because Petitioner was not eligible for any allowable need deductions, her net income of ██████ is also her countable income. Because Petitioner's countable income of ██████ exceeded the applicable ██████ PIL by ██████, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA coverage subject to a monthly ██████ deductible.

Petitioner expressed concerns about the Department's failure to apply her June 2016 and July 2016 medical expenses towards her deductible and activate her MA coverage for those months. 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, p. 10. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the month being tested. BEM 545, p. 11. Periods of MA coverage are added each time the individual meets the deductible. BEM 545, p. 11.

In this case, the Department contended that it was unable to apply the medical expenses Petitioner submitted in June 2016 and July 2016 for services incurred that month because the amounts submitted had not been submitted to Medicare for determination of expenses covered by Medicare. In determining whether a deductible is met, the Department must count allowable expenses incurred during the month for which eligibility is being determined, whether paid or unpaid. BEM 545, p. 15. An allowable expense is the actual charge for an incurred medical service less the liable

third party resource payments. BEM 545, p. 15. Payments for medical care from a third party, including Medicare, are third party resource payments that are **not** included as part of a client's medical expense. BEM 545, p. 19. However, while the Department must count only the beneficiary's cost as an allowable medical expense, it may not delay the eligibility determination just because third party payment information is not readily available. BEM 545, p. 18. Therefore, the Department did not act in accordance with Department policy when it delayed Petitioner's eligibility determination.

### **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 in determining that Petitioner was eligible for MA subject to a [REDACTED] monthly deductible but did not act in accordance with Department policy when it failed to process Petitioner's submitted medical bills for services incurred in June 2016 and July 2016 to determine whether MA should be activated.

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. Reprocess Petitioner's June 2016 and July 2016 medical expense bills; and
2. Activate MA coverage for June 2016 and July 2016 if Petitioner is eligible based on expenses incurred.

ACE/tlf



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**Alice C. Elkin**

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]

**Petitioner**

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

**Via Email:**

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