



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 15, 2016
MAHS Docket No.: 16-010800
Agency No.: ██████████
Petitioner: ██████████

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 September 8, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with her Authorized Hearing Representative ██████████, who also served as ██████████ Interpreter. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly determine that Petitioner's spouse was eligible for Medical Assistance (MA) benefits with a monthly deductible of ██████████?

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's husband, ██████████ was an ongoing recipient of MA benefits.
2. ██████████ was previously approved for MA under the Group 2 Caretaker Relatives (G2C) category, as there was a minor child in the home.
3. ██████████ receives gross monthly unearned income from Retirement, Survivors and Disability Insurance (RSDI) benefits in the amount of ██████████. (Exhibit A)

4. Effective December 1, 2015, [REDACTED] MA coverage was transferred to the Group 2 Aged, Blind, and Disabled (G2S) category, as his child was no longer a minor. The Department determined that he was subject to a monthly deductible of [REDACTED]
5. On July 28, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her husband's MA benefits.

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 requested a hearing disputing the Department's actions with respect to MA benefits for her husband. Petitioner raised concerns at the hearing regarding the Department's determination that her husband was ineligible for a full coverage MA program as well as the calculation of the MA deductible imposed.

Petitioner's husband, who has no minor children and 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, such as the G2S program and Group 1 MA Ad-Care are the same, other than income. BEM 166 (July 2013), pp. 1-2.

At the hearing, the Department's testified that Petitioner's husband was ineligible for the Group 1 Ad-Care program on the basis that his income was in excess of the limit. The Department determined that Petitioner's husband would be eligible for MA under a

Group 2 category, subject to a monthly deductible based on his income. 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's husband has a MA fiscal group of two (Petitioner and himself). BEM 211 (January 2016), p. 5. Effective April 1, 2016, a MA fiscal group with two members is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below █████, which is 100 percent of the Federal Poverty Level, plus the █████ disregard. RFT 242 (April 2016), p. 1.

Based on Petitioner's husband's confirmed gross monthly RSDI income of █████ and upon further review, the Department properly determined that Petitioner's husband was ineligible for MA benefits under the Ad-Care program without a deductible, as his net income is in excess of the income limit for a fiscal group size of two. Thus, the Department properly determined that Petitioner's husband would be eligible for MA under the G2S category, subject to a monthly deductible based on his 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 two (Petitioner and her husband) living in █████ County is █████ per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's husband's net monthly income is in excess of the █████, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds █████. BEM 545, p 1.

The Department produced a SSI-Related MA budget showing how the deductible in Petitioner's husband's MA case was calculated. (Exhibit B). The Department properly calculated Petitioner's husband's gross unearned income from monthly RSDI benefits in the amount of █████ and properly subtracted the █████ unearned income general exclusion to determine that Petitioner's husband had net income for MA purposes of █████. A review of the SOLQ indicates that Petitioner's husband's monthly RSDI is reduced by █████ for a Medicare insurance premium, which the Department failed to consider as a deduction to income on the deductible budget. (Exhibit A). Petitioner confirmed that her husband is responsible for insurance premiums but stated that █████ is deducted from his monthly RSDI benefit. Petitioner did not provide supporting documentation to show that her husband is responsible for insurance premiums of █████, however. There was no evidence presented that Petitioner was entitled to any other deductions to income. BEM 530, pp 1-4; BEM 541, pp.2-3.

Therefore, because the Department failed to apply the insurance premium deduction to Petitioner's husband's net income, the Department did not properly determine that Petitioner's husband had countable income of [REDACTED] and a deductible of [REDACTED]. The Department will be ordered to recalculate Petitioner's husband's MA deductible effective April 1, 2016, as that is within the 90 day period prior to Petitioner's July 28, 2016, hearing request.

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's husband was eligible for MA under the G2S program with a monthly deductible, however, the Department did not act in accordance with Department policy when it determined that Petitioner's husband's MA deductible was [REDACTED]

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 husband's MA deductible for April 1, 2016, ongoing;
2. Provide Petitioner's husband with MA coverage that he was entitled to receive but did not from April 1, 2016, ongoing, and
3. Notify Petitioner and her AHR 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]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

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

Authorized Hearing Rep.

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

Via Email:

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