



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]
[REDACTED]

Date Mailed: September 23, 2016
MAHS Docket No.: 16-011504
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 15, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly provide Petitioner with Medicaid (MA) coverage under the Group 2 SSI-related (G2S) program subject to a monthly [REDACTED] 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 applied for MA benefits on February 25, 2016.
2. Petitioner receives gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of [REDACTED] and gross monthly pension income of [REDACTED]
3. On February 18, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was eligible for full coverage for February 2016 but his coverage for March 1, 2016 ongoing was subject to a monthly [REDACTED] deductible (Exhibit G).

4. Each month between March 2016 and July 2016, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was eligible for full coverage MA (Exhibit H).
5. On July 29, 2016, the Department sent Petitioner a Benefit Notice notifying him that his MA coverage was subject to a monthly [REDACTED] deductible effective February 2016 ongoing (Exhibit E).
6. On August 9, 2016, the Department received Petitioner's request for hearing disputing the Department's actions concerning his 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).

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 a July 29, 2016 Benefit Notice, the Department notified Petitioner that his MA was subject to a monthly [REDACTED] deductible effective February 2016. Petitioner requested a hearing disputing the Department's findings, noting that, until he received the July 29, 2016 Notice, he had been receiving monthly notices notifying him that he was eligible for full-coverage MA. The Department conceded that Health Care Coverage Determinations were sent to Petitioner on a monthly basis notifying him of full-coverage MA (Exhibit H) but explained that, based on his income, he was eligible for MA subject to a [REDACTED] deductible and, accordingly, sent him the July 29, 2016 Benefit Notice notifying him that his MA was subject to the [REDACTED] deductible from February 2016 ongoing.

Generally, a client is entitled to timely notice of the initiation of a deductible amount unless he has a deductible case as of the day of the case opening. BAM 220 (July 2016), pp. 10-11. In this case, Petitioner had a deductible case from the date his case opened February 1, 2016, but, because of Department error, he was not notified of the deductible until the July 29, 2016 Benefit Notice was sent to him. Department policy provides that when eligibility results are incorrect or inconsistent with published policy, a

policy exception will apply to override the eligibility result. BEM 100 (July 2015), p. 8. Therefore, if Petitioner was eligible for MA coverage subject to a [REDACTED] deductible but the Department's system was improperly notifying him that he was eligible for full coverage MA, the Department could override the incorrect eligibility results.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, which is limited to individuals ages 18 to 64. BEM 105 (July 2016), p. 1; BEM 137 (January 2016), p. 1. The evidence at the hearing established that Petitioner was over age 65, a Medicare recipient, and not the caretaker of a minor child. Therefore, the only MA category he is eligible for is SSI-related MA.

In determining the SSI-related MA coverage category Petitioner is eligible for, the Department must determine Petitioner's MA fiscal group size and net income for MA purposes. Because Petitioner is unmarried, his fiscal group size for SSI-related MA purposes is one. BEM 211 (January 2016), p. 8. An 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 100% of the federal poverty level, which is [REDACTED] (or if gross income is less than [REDACTED] when the [REDACTED] general exclusion is added back in). BEM 163 (July 2013), p. 2; RFT 242 (April 2016), p. 1; <https://aspe.hhs.gov/poverty-guidelines>.

Petitioner has gross monthly income totaling [REDACTED], consisting of [REDACTED] in gross monthly RSDI income and [REDACTED] in gross monthly pension income. His gross unearned income of [REDACTED] reduced by a [REDACTED] disregard results in net income is [REDACTED]. BEM 541 (January 2016), p. 3. Because his net income exceeds the [REDACTED] income limit, he is not income eligible for full-coverage under the AD-Care program.

Clients who are ineligible for full-coverage MA coverage because of excess income may nevertheless be eligible for Group 2 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 levels (PIL); the PIL is based on the client's shelter area 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.

Petitioner, who is unmarried, has a fiscal group size of one for SSI-related MA purposes. BEM 211 (January 2016), p. 8. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in Wayne County, is [REDACTED] per month. 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 [REDACTED] he may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly net income, less allowable deductions, exceeds [REDACTED]. BEM 545 (July 2013), p. 2.

In determining the monthly deductible, a client's net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or home for the aged. BEM 544, pp. 1-3. In this case, Petitioner does not reside in an adult foster care home or home for the aged. Therefore, he is not eligible for any remedial service allowances. The SOLQ report for Petitioner, which shows information accessible to the Department from the Social Security Administration concerning Petitioner's Social Security benefits, shows that Petitioner was responsible for paying his [REDACTED] monthly Part B Medicare premium (Exhibit C). The budget does not include this expense as an allowable needs deduction, as provided in policy. See BEM 544, p. 1.

Therefore, although the Department properly concluded that Petitioner was eligible to MA coverage subject to a monthly deductible, it did not act in accordance with Department policy when it calculated Petitioner's MA deductible.

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 did not act in accordance with Department policy when it calculated Petitioner's monthly deductible.

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 eligibility for February 1, 2016 ongoing;
2. Provide Petitioner with MA coverage he is eligible to receive from February 1, 2016 ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



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]

Petitioner

[REDACTED]

Via Email:

[REDACTED]