



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: October 31, 2016  
MAHS Docket No.: 16-013581  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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 October 27, 2016, from Detroit, Michigan. The Petitioner was represented by her spouse, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator; and [REDACTED], Eligibility Specialist.

### **ISSUES**

Did the Department properly calculate the spouse's MA – Group 2 Spend-Down (G2S) deductible effective June 1, 2016?

Did the Department properly provide the spouse with MA coverage he is eligible to receive from June 1, 2016?

### **FINDINGS OF FACT**

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

1. The spouse is an ongoing recipient of MA benefits.
2. The spouse is 62-years-old, his household size consists of himself and his wife (Petitioner), he is disabled, and both receive Social Security benefits.

3. On an unspecified date, Petitioner submitted a redetermination and while processing the spouse's MA eligibility, the Department determined that he was eligible for G2S coverage, subject to a deductible.
4. On September 16, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that his spouse was eligible for the following coverage: (i) he was eligible for MA benefits effective June 1, 2016 to June 30, 2016 (with a [REDACTED] monthly deductible); (ii) he was eligible for MA benefits effective July 1, 2016 to July 19, 2016 (with a \$ [REDACTED] monthly deductible); (iii) he was eligible for full coverage MA benefits effective July 20, 2016 to July 31, 2016; and (iv) he was eligible for MA benefits effective August 1, 2016, ongoing (with a [REDACTED] monthly deductible). Exhibit A, pp. 4-8.
5. On September 20, 2016, Petitioner filed a hearing request, protesting the denial of full MA coverage and the resulting deductible. Exhibit A, pp. 2-3.

### **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.

#### **Preliminary matter**

First, based on Petitioner's hearing request and the spouse's testimony, the undersigned will address the following issues separately: (i) whether the Department processed the spouse's eligibility for the most beneficial MA category for June 1, 2016; and (ii) whether the Department properly calculated the spouse's G2S deductible effective June 1, 2016.

Second, prior to the commencement of the hearing, Petitioner was present for the hearing as well. However, at the commencement of the hearing, only the spouse was present for the hearing and the hearing proceeded without the Petitioner. See BAM 600 (October 2015), pp. 1-6.

### **Most Beneficial Program**

In the present case, the spouse argued that the deductible coverage provided by the Department was inadequate. See Exhibit A, p. 3. Instead, the spouse argued that he should be entitled to full MA coverage. See Exhibit A, p. 3. The spouse is 62-years-old and he receives a monthly gross Retirement, Survivors, and Disability Insurance (RSDI) income of [REDACTED]

Persons may qualify under more than one MA category. BEM 105 (July 2016), p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility, the least amount of excess income or the lowest cost share. BEM 105, p. 2.

Based on the foregoing information, the evidence and testimony is persuasive to conclude that the Department acted in accordance with Department policy when it processed the spouse's eligibility for the most beneficial MA category for June 1, 2016, ongoing. BEM 105, pp. 2-5. In this case, the spouse's most beneficial MA category was G2S based on the evidence and testimony presented. It should be noted that the spouse is not eligible for the Healthy Michigan Plan (HMP) because he qualifies for and/or is enrolled in the G2S program. See BEM 137 (January 2016), p. 1 (HMP provides health care coverage for individuals who do not qualify for or are not enrolled in other Medicaid programs).

### **MA – G2S deductible for June 2016**

Next, the spouse may still receive MA benefits subject to a monthly deductible through the G2S program. In this case, the spouse was found eligible for G2S subject to a [REDACTED] deductible for June 2016. Exhibit B, p. 1. The undersigned will now determine if the Department properly calculated the spouse's G2S budget for June 2016.

In the present case, the spouse's group size is two (Petitioner and spouse) and they reside in [REDACTED] County. Because both Petitioner and spouse reside together, the group size is two and the Department will take both of their incomes into consideration. See BEM 211 (January 2016), p. 8. The Department presented the G2S budget for the benefit period of June 2016. See Exhibit B, p. 1.

G2S is an SSI-related Group 2 MA category. See BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

In this case, the Department properly calculated the spouse's gross total unearned income to be [REDACTED], which consisted of their RSDI income. See Exhibit A, pp. 9-14 (State On-Line Inquiry); and BEM 503 (July 2016), p. 28 (The Department counts the gross benefit amount as unearned income).

The Department then properly subtracted the [REDACTED] disregard to establish the spouse's total net unearned income of [REDACTED]. Exhibit B, p. 1; and BEM 541 (January 2016), p. 3.

Next, the Department does provide budget credits, which can reduce the total net income and more importantly, the deductible amount. In this instance, policy allows that Department to take into account health insurance premiums. Policy states that the Department counts as a need item the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the medical group (defined in "EXHIBIT I") regardless of who the coverage is for. BEM 544 (July 2016), p. 1. In this case, the evidence indicated that Petitioner is responsible for approximately [REDACTED] in insurance premiums, which is comprised of her [REDACTED] Medicare Part B premium plus her Medicare Part D premium. Exhibit A, p. 9. The Department acknowledged that Petitioner was responsible for her Medicare Part B premium beginning on or about May 1, 2016. See Exhibit A, p. 9. However, the budget indicated that Petitioner insurance premium is [REDACTED], which is obviously different than the amount shown in the budget. See Exhibit B, p. 1. Based on the Department's testimony, it appeared the [REDACTED] amount was based on one-time-only medical expenses being submitted and the medical expenses were not health insurance premiums. Nonetheless, the evidence record established that the Department miscalculated the insurance premium because Petitioner is responsible for more than [REDACTED] in insurance premiums. Because the Department miscalculated the health insurance premium in the budget, the Department did not act in accordance with Department policy when it calculated the spouse's MA budget for June 2016. See BEM 544, pp. 1-2. The Department is ordered to recalculate the MA budget for June 2016.

As side note, the undersigned will not address the remaining calculations in the June 2016 budget because these figures will change upon the Department properly calculating the health insurance premium.

#### **MA – G2S deductible for July 1, 2016, ongoing**

Now, the undersigned also reviewed the G2S budget for July 2016 because the deductible amount was different from June 2016. Effective July 2016, ongoing, the budgets show that the deductible was [REDACTED]. Exhibit B, p. 2. It should be noted that some of the discussions below might seem repetitive from the above analysis.

In this case, the Department properly calculated the spouse's gross total unearned income to be [REDACTED] which consisted of their RSDI income. See Exhibit A, pp. 9-14 (State On-Line Inquiry); and BEM 503, p. 28 (The Department counts the gross benefit amount as unearned income).

The Department then properly subtracted the [REDACTED] disregard to establish the spouse's total net unearned income of [REDACTED]. Exhibit B, p. 2; and BEM 541, p. 3.

Next, the Department does provide budget credits, which can reduce the total net income and more importantly, the deductible amount. Again, the Department provided the spouse with a deduction because of the Petitioner's health insurance premiums. Exhibit B, p. 2. But instead of calculating a health insurance premium of [REDACTED], the Department calculated the insurance premium to be [REDACTED] Exhibit B, p. 2. However, as previously discussed, Petitioner is responsible for approximately [REDACTED] in insurance premiums. Exhibit A, p. 9. The Department budgeted an extra [REDACTED] for the insurance premiums, which resulted in the total calculation to be [REDACTED] for the premiums. But again, the [REDACTED] amount appeared to be based on one-time-only medical expenses being submitted and these medical expenses were not health insurance premiums. Thus, the Department did not act in accordance with Department policy when it miscalculated the insurance premium for July 2016. Because the Department miscalculated the health insurance premium in the budget, the Department did not act in accordance with Department policy when it calculated the spouse's MA budget for July 1, 2016, ongoing. See BEM 544, pp. 1-2. The Department is ordered to recalculate the MA budget for July 1, 2016, ongoing.

As side note, the undersigned will not address the remaining calculations in the July 2016 budget because these figures will change upon the Department properly calculating the health insurance premium.

### **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 (i) the Department acted in accordance with Department policy when it processed the spouse's eligibility for the most beneficial MA category for June 1, 2016, ongoing; and (ii) the Department did not act in accordance with Department policy when it improperly calculated Petitioner's MA – G2S deductible effective June 1, 2016, ongoing.


Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the spouse's MA – G2S eligibility for the most beneficial program and **REVERSED IN PART** with respect as to the calculation of the MA deductible.

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. Begin recalculating the MA budget for June 1, 2016, ongoing (including the health insurance premium);
2. Issue supplements to the spouse for any MA benefits he was eligible to receive but did not from June 1, 2016, ongoing; and

3. Notify Petitioner of its decision.

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**Eric J. Feldman**  
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]

[REDACTED]

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

CC: [REDACTED]  
[REDACTED]