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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: December 20, 2016
MAHS Docket No.: 16-016790
Agency No.: ██████████
Petitioner: ██████████

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 December 8, 2016, from Detroit, Michigan. The Petitioner was represented by her Authorized Hearing Representative (AHR)/spouse, ██████████. The Department of Health and Human Services (Department) was represented by ██████████ ██████████, Eligibility Specialist.

ISSUES

Did the Department properly provide Petitioner with MA coverage she is eligible to receive from November 1, 2016, ongoing?

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

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.
2. Petitioner is 63-years-old, the AHR (Petitioner's spouse) is 60-years-old, both reside together, and they both receive monthly Retirement, Survivors, and Disability Insurance (RSDI) income.

3. Petitioner received full MA – AD-Care coverage until October 2016 because she was in a Nursing Home Facility.
4. On or about [REDACTED], Petitioner was discharged from the nursing facility and returned back to her residence.
5. As a result of Petitioner returning back to her residence and residing with her spouse (the AHR), both of their incomes are taken into consideration and she was no longer eligible for AD – Care coverage due to excess income. Exhibit A, p. 1 (Hearing Summary).
6. On October 7, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was eligible for MA coverage effective November 1, 2016 (with a [REDACTED] deductible).
7. On November 3, 2016, Petitioner's AHR filed a hearing request, protesting the Department's action. Exhibit A, p. 2.

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

Based on Petitioner's hearing request and the AHR's testimony, the undersigned Administrative Law Judge (ALJ) will address the following issues separately: (i) whether the Department processed Petitioner's eligibility for the most beneficial MA category for November 1, 2016; and (ii) whether the Department properly calculated Petitioner's G2S deductible November 2016, ongoing.

Most Beneficial Program

In the present case, the AHR argued that the deductible coverage provided by the Department was inadequate. Petitioner is 63-years-old, her household size is two, she

is disabled, and the AHR testified that their combined net income is approximately [REDACTED].

Persons may qualify under more than one MA category. BEM 105 (July 2016 and October 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 Petitioner's eligibility for the most beneficial MA category for November 1, 2016, ongoing. BEM 105, pp. 2-5. In this case, Petitioner's most beneficial MA category was G2S based on the evidence and testimony presented. Petitioner previously received ongoing AD-Care coverage, which is full Medicaid coverage. However, once Petitioner returned to her residence, her group size increased to two (Petitioner and her spouse (the AHR)), resulting Petitioner is no longer being eligible for AD-Care coverage based on their monthly income. The AHR indicated their combined net income is approximately [REDACTED], which exceeds the [REDACTED] AD-Care income limit for a group size of two. See RFT 242 (October 2016), p. 1. Accordingly, Petitioner is ineligible for AD-Care coverage and instead, she is eligible for G2S coverage. See BEM 163 (July 2014), pp. 1-3; BEM 166 (July 2013), pp. 1-3; and RFT 242, p. 1.

MA – G2S deductible

Next, Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. In this case, Petitioner was found eligible for G2S subject to a [REDACTED] deductible effective November 2016. Exhibit A, p. 3. However, the Department failed to present a budget to show how it calculated the MA deductible for November 2016. Nevertheless, the Department presented a MA budget for December 2016, which appeared to contain the same calculations as the November 2016 budget because it calculated the same deductible of [REDACTED]. Exhibit A, p. 5. As such, the undersigned ALJ reviewed the December 2016 budget. Exhibit A, p. 5.

In the present case, Petitioner's group size is two and both reside in [REDACTED] County. Because both Petitioner and spouse (the AHR) 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.

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

In this case, the Department calculated their combined gross total unearned income to be [REDACTED], which consisted of their RSDI income. See Exhibit A, p. 5; and BEM 503 (July 2016), p. 28 (The Department counts the gross benefit amount as unearned income). The Department testified Petitioner's gross RSDI income is [REDACTED] and the

AHR's gross income is [REDACTED]. The AHR agreed with his gross income calculation, but disputed Petitioner's income. The AHR testified Petitioner receives [REDACTED] in net RSDI income. The Department failed to present evidence showing the amount of Petitioner's RSDI income. Because there is no November 2016 budget showing that amount calculated for the unearned income and the Department failed to present evidence showing the amount it calculated specifically for Petitioner's RSDI income, the Department failed to establish its burden of showing that it properly calculated the gross unearned income in accordance with Department policy. Therefore, the Department is ordered to recalculate the gross unearned income in accordance with Department policy. See BEM 503, p. 28.

Next, the Department properly subtracted the [REDACTED] disregard from the unearned income. Exhibit A, p. 5; and BEM 541 (January 2016), p. 3.

Then, 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 Department budgeted [REDACTED] in insurance premiums. Exhibit A, p. 5. However, both parties acknowledged that this was an improper calculation. Both Petitioner and the AHR are responsible to pay for their Medicare premiums. As such, the undersigned ALJ finds that the Department miscalculated their insurance premium deduction, and the Department is ordered to recalculate this amount effective November 1, 2016. See BEM 554, p. 1.

Also, the AHR testified that the "ongoing medical expenses," which shows that Petitioner had no ongoing expenses was incorrect. See Exhibit A, p. 5. However, the AHR failed to present any medical bills for the evidence record showing that she has ongoing medical bills. Nevertheless, the undersigned ALJ is only using the December 2016 as a guide for the calculations and the Department failed to present the MA budget for November 2016 to show that it was properly calculated. Accordingly, the Department will recalculate the MA budget effective November 2016, including whether Petitioner submitted any qualifying ongoing medical expenses.

Finally, the undersigned will not address the remaining calculations in the budget because these figures will change upon the Department recalculating the budget. See Exhibit A, p. 5.

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 Petitioner's eligibility for the


most beneficial MA category for November 1, 2016, ongoing; and (ii) the Department failed to satisfy its burden of showing that it properly calculated Petitioner's MA – G2S deductible for November 1, 2016, ongoing.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's MA – G2S eligibility for the most beneficial program and **REVERSED IN PART** with respect to the calculation of the MA deductible for November 2016.

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 November 1, 2016;
2. Issue supplements to Petitioner for any MA benefits she was eligible to receive but did not from November 1, 2016, ongoing; and
3. Notify Petitioner of its decision.

EF/tm



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]
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CC: [REDACTED]
[REDACTED]