



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

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Date Mailed: April 11, 2016  
MAHS Docket No.: 16-001033  
Agency No.: ██████████  
██████████

**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 March 30, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. His daughter ██████████ appeared and testified on his behalf. The Department of Health and Human Services (Department) was represented by ██████████ Back-up Hearing Facilitator. ██████████, who participated via telephone conference, served as translator (Arabic).

**ISSUE**

Did the Department properly determine that Petitioner and his wife were eligible beginning February 1, 2016 to Medicaid (MA) subject to a monthly \$708 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 is married, and he and his wife live in Wayne County.
2. Petitioner and his wife were ongoing full-coverage MA recipients.
3. Petitioner receives \$991.80 in gross monthly Retirement, Survivors and Disability Insurance (RSDI) benefits; his wife receives \$357.90 in gross monthly RSDI income (Exhibit A, pp. 5-11).

4. The Social Security Administration (SSA) withholds \$104.90 from Petitioner's and from his wife's RSDI benefits to pay for their Part B Medicare premium.
5. On an unknown date, the Department notified Petitioner that his and his wife's MA cases were closing.
6. On January 26, 2016, the Department received Petitioner's written request for hearing disputing the Department's denial of his and his wife's MA eligibility.

### **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 requested a hearing on January 26, 2016 concerning his and his wife's MA cases. The evidence at the hearing established that Petitioner and his wife had been receiving full-coverage MA under the Healthy Michigan Program (HMP). It appears that Petitioner requested a hearing after receiving notice from the Department that he and his wife were no longer eligible for HMP coverage. On February 3, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he and his wife were eligible for MA subject to an \$830 deductible for January 2016 and for a \$708 deductible for February 1, 2016 ongoing. The Notice also notified him that they were both eligible for Medicare Savings Program (MSP) benefits. (Exhibit A, p. 13). At the hearing, Petitioner clarified that he had requested a hearing concerning his and his wife's MA eligibility. While the file appeared to show some inconsistencies concerning his MSP eligibility, the program that results in the State's payment of a client's Part B Medicare premiums, Petitioner's hearing request was limited to the issue of his MA coverage, which he confirmed at the hearing. Petitioner was advised that he could request a hearing concerning his and his wife's MSP cases. The hearing proceeded to address Petitioner and his wife's eligibility for full coverage MA and MA subject to a deductible.

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 HMP coverage. BEM 105 (October 2014), p. 1; BEM 137 (January 2016), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (January 2016), p. 1.

At the hearing, Petitioner acknowledged that he and his wife were both Medicare recipients. The birth dates shown on their respective SOLQ reports, which show information concerning clients' SSA benefits accessible to the Department, show that they are each age 65 or over. Therefore, they are not eligible for HMP coverage and eligible only for SSI-related MA available to aged individuals.

In determining the SSI-related MA coverage Petitioner and his wife are eligible for, the Department must determine their MA fiscal group size and net income for MA purposes. Because Petitioner and his wife are married and there was no evidence that either was in long-term care, a waiver patient or a Freedom to Work client, their fiscal group size for SSI-related MA purposes is two. BEM 211 (January 2016), p. 8. A fiscal group with two members is eligible for MA coverage under the Ad-Care program, a full-coverage SSI-related MA program, if the group's net income does not exceed 100% of the federal poverty level. BEM 163 (July 2013), p. 1. BEM 163, p. 2 provides that income eligibility exists when net income does not exceed the income limit in RFT 242. Under RFT 242 (May 2015), the income limit for Ad-Care eligibility for a two-person household is \$1327.50. However, effective April 1, 2016, the income limit for a two-person household is \$1335. RFT 242 (April 2016), p. 1. This is consistent with 100% of the 2016 FPL, which is \$16,020 annually, or \$1335 monthly. <https://aspe.hhs.gov/poverty-guidelines>.

In this case, Petitioner has gross monthly income of \$991.80 and his wife has gross monthly income of \$357.90, resulting in gross monthly income of \$1349.70. This figure is reduced by a \$20 disregard to arrive at net monthly income of \$1329.70. See BEM 541 (January 2016), p. 3. Petitioner and his wife's net monthly income exceeds the \$1327.50 net income limit for Ad-Care eligibility that applies through March 2016. Therefore, the Department acted in accordance with Department policy in effect at the time Petitioner and his wife's MA eligibility determination was made when it determined that Petitioner and his wife were not eligible for full-coverage MA under the Ad-Care program for February 2016 and March 2016. However, effective April 1, 2016, because Petitioner and his wife's net income is less than the \$1335 net income limit applicable for Ad-Care eligibility, they are eligible for full-coverage MA.

For months prior to April 2016, Petitioner and his wife may be eligible for Group 2 SSI-related (G2S) MA coverage, which provides for MA coverage with a deductible, even though he and his wife were ineligible for full-coverage MA coverage because of excess

income. 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 2013), 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 two living in Wayne County, is \$500. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner and his wife's monthly net income (less allowable needs deductions) is in excess of \$500, they 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 \$500. BEM 545 (January 2015), p. 2.

In this case, the Department presented an SSI-related MA budget showing the calculation of Petitioner's deductible (Exhibit E). As discussed above, Petitioner's net income for MA purposes is \$1329.70. 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. The SOLQs for Petitioner and his wife show that they are each responsible for their \$104.90 Part B Medicare premium. Medicare premiums are allowable need deductions. See BEM 544, pp. 1-2. Because the Department did not properly deduct the Medicare premiums in determining Petitioner and his wife's deductibles, the Department did not act in accordance with Department policy in calculating the deductible applicable to Petitioner's and his wife's MA cases.

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 determined Petitioner and his wife's MA eligibility and deductible amount.

### **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 and his wife's MA deductible for February 1, 2016 ongoing;
2. Provide Petitioner and his wife with MA coverage they are eligible to receive from February 1, 2016 ongoing; and
3. Notify Petitioner of its decision in writing.



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

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