



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: May 31, 2016
MAHS Docket No.: 16-003885
Agency No.: [REDACTED]
[REDACTED]

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 May 5, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits?

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 was previously approved for full coverage MA under the Ad-Care program through November 2015 under case no. [REDACTED]. (Exhibit A)
2. For an unexplained reason, Petitioner's MA case under case no. [REDACTED] closed effective December 1, 2015. (Exhibit A)
3. On or around February 4, 2016, Petitioner reapplied for MA benefits and requested retroactive MA coverage for November 2015, December 2015, and January 2016.
4. Petitioner receives gross monthly Retirement, Survivors and Disability Insurance (RSDI) income in the amount of \$1307.80. (Exhibit D)

5. On February 23, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that for the period of December 1, 2015, to January 31, 2016, she was approved for full coverage MA and that for February 1, 2016, ongoing, she was eligible for MA with a monthly deductible of \$807. (Exhibit B)
6. Petitioner's MA coverage was transferred to a new case number (Case no. [REDACTED]) effective December 1, 2015. (Exhibit A; Exhibit B)
7. On March 17, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her 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.

Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Petitioner raised concerns regarding the transfer of her MA coverage from the full coverage Ad-Care program to the Group 2 Aged, Blind and Disabled (G2S) program with an \$807 monthly deductible and the Department's failure to properly process medical expenses incurred to be applied to her monthly deductible.

Transfer of MA Coverage from Ad-Care to G2S with Deductible

Petitioner, who 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 and Group 1 MA Ad-Care are the same, other than income. BEM 166 (July 2013), pp. 1-2.

At the hearing, the Department testified that it was previously not budgeting Petitioner's monthly RSDI income and as a result, she was approved for full coverage MA under the Ad-Care program in error. The Department testified that after processing Petitioner's February 2016 application, it determined that she had excess income for Ad-Care but that she was eligible for MA under a Group 2 program, subject to a deductible based on her 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 has a MA fiscal group of one. BEM 211 (January 2016), p. 5. Effective April 2015, a MA fiscal group with a single member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$980.83, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (May 2015), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p.2. The Department testified that Petitioner had gross unearned income from RSDI in the amount of \$1307. A SOLQ was provided in support of the Department's testimony and Petitioner confirmed that the amount was correct. (Exhibit D).

After further review of Department policy, because Petitioner's countable income exceeds the \$980.83 net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it terminated Petitioner's MA benefits under the Ad-Care program and determined that she was eligible for a Group 2 MA program.

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 one (Petitioner) living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's net monthly income is in excess of the \$375, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p 1.

At the hearing, the Department produced a SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit C). The Department testified that

in calculating Petitioner's unearned income, it considered \$1307 in gross monthly RSDI benefits, which as discussed above was properly determined. The Department properly subtracted the \$20 unearned income general exclusion and determined that Petitioner's net income for MA purposes was \$1287 and that she had countable income of \$1182.10, as at the time the budget was completed, the Department had excluded \$104.90 in insurance premiums. (Exhibit C; Exhibit D). There was no evidence presented that Petitioner was entitled to any other deductions to income. BEM 530 (January 2014), pp 1-4; BEM 541 (January 2016), pp.2-3.

Because Petitioner's countable income of \$1182.10 for MA purposes exceeds the monthly protected income level of \$375 by \$807, the Department properly calculated Petitioner's monthly \$807 MA deductible in accordance with Department policy.

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 acted in accordance with Department policy when it determined that Petitioner had excess income for the Ad-Care program and that she was eligible for MA under the G2S program with a monthly deductible of \$807.

Failure to Process Medical Expenses

With respect to income eligibility for Group 2 MA, Department policy provides that income eligibility exists for the calendar month tested when there is no excess income or the allowable medical expenses (defined in Exhibit 1) equal or exceed the excess income. When old bills, personal care services, the cost of hospitalization, or long term care equals or exceeds the group's excess income for the month tested, income eligibility exists for the entire month. When old bills, personal care services, the cost of hospitalization, or long term care does not equal or exceed the group's excess income for the month being tested, income eligibility begins either: the exact day of the month the allowable expenses exceed the excess income or the day after the day of the month the allowable expenses equal the excess income. BEM 545, p. 1.

If the client still has excess income, BEM 545 provides that a client may still be eligible for Group 2 MA if sufficient allowable medical expenses are incurred through a deductible process, referenced above. BEM 545, p. 10. The Department will open a MA case without ongoing Group 2 MA coverage as long as the fiscal group has excess income and at least one fiscal group member meets all other Group 2 MA eligibility factors. These cases are called active deductible cases and each calendar month is a separate deductible period, with MA coverage added each time the group meets its deductible. BEM 545, p. 10. For recipients of MA, the first deductible period is the month following the month for which MA coverage is authorized. BEM 545, pp. 10-11.

The fiscal group's monthly excess income is called a deductible amount. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit 1) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the

month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11. A group may report additional expenses that were incurred prior to the MA eligibility begin date referenced above. The Department is not to alter the MA eligibility begin date if coverage has already been authorized on Bridges, however, any expenses the group reports that were incurred from the first of such month through the day before the MA eligibility begin date might be countable as old bills and applied to future months deductible. See Exhibit 1B and Example 7 in Exhibit IV of BEM 545. BEM 545, p. 13.

In this case, the Department stated that Petitioner submitted medical expenses in February 2016 to establish that she met her deductible for certain months. The Department stated that the expenses were processed and applied to Petitioner's MA deductible, thereby approving her for full coverage MA benefits for the months of December 2015, January 2016, February 2016, March 2016 and April 2016. (See Exhibit A Medicaid Eligibility Summary). The Department did not identify which expenses were considered and in what amounts.

Petitioner asserted that she had monthly ongoing medical expenses of at least \$3840, as she has been diagnosed with stage four colon cancer and requires continuous treatments. Petitioner testified that she submitted medical bills to the Department on more than one occasion for her medical treatments and services including in patient hospitalization expenses. Petitioner further maintained that she received bills from her providers for months in which she was supposed to have been approved for full coverage MA.

The Department conceded that based on a hospital bill submitted in the amount of [REDACTED] and Petitioner's monthly ongoing medical expenses, she likely has sufficient medical expenses to meet her deductible for future months. The Department stated however, that a help desk ticket may be needed to apply the expenses/old bills to future months. It was also unclear when Petitioner's in-patient hospitalization occurred and whether the Department properly applied the hospitalization expenses to her MA eligibility for the appropriate month.

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 based on the evidence presented by the Petitioner and the Department during the hearing, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's medical expenses and applied them to her monthly deductible.

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. Process any medical expenses incurred and apply them towards Petitioner's MA deductible for December 2015, ongoing;
2. Provide Petitioner with MA coverage under the most beneficial category for the period of December 1, 2015, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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