



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 17, 2016
MAHS Docket No.: 16-005679
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED] from Detroit, Michigan. The Petitioner was represented by herself. A witness, [REDACTED], also appeared on behalf of the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine the Petitioner's Medical Assistance (MA) spenddown?

FINDINGS OF FACT

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

1. On [REDACTED], Administrative Law Judge Elkin issued a Hearing Decision, which ordered the Department to recalculate the Petitioner's MA budget for [REDACTED] ongoing and to provide the Petitioner with MA coverage she is eligible to receive from [REDACTED], ongoing. Exhibit 1.
2. On [REDACTED], the Department certified that it recalculated the Petitioner's MA spenddown and determined it to be \$ [REDACTED] Exhibit 2.

3. The Petitioner receives unearned income from Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED] and RSDI as a survivor of her husband in the amount of \$ [REDACTED] for a total of \$ [REDACTED] in unearned income.
4. The Petitioner also pays for a Medicare Part B premium in the amount \$ [REDACTED]. The Petitioner is an MA group of one person.
5. The Department changed the amount of the Petitioner's spenddown and recalculated it; after it discovered that it had failed to budget the Petitioner's RSDI income, she received from her deceased husband's based on his work record.
6. The budget presented by the Department at the hearing was incorrect as it was a group 2, FIP-related MA budget and not a spenddown budget based on the protected income level for Supplemental Security Income (SSI)-related MA.
7. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

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 this case, the Petitioner requested a hearing regarding the Department's calculation of her SSI-related MA spenddown. At the hearing, the Petitioner's income was established to be \$ [REDACTED] upon her receipt of RSDI based upon her disability and \$ [REDACTED] RSDI based upon her deceased husband's work history. The total gross unearned income totaled \$ [REDACTED]. For purposes of SSI-related MA budgets, this unearned income is reduced by a \$ [REDACTED] disregard. BEM 541 (January 2015), p. 3. Petitioner's gross income reduced by \$ [REDACTED] results in a net income for MA purposes of \$ [REDACTED]. Based upon this net income, the Petitioner is not eligible for Full MA Coverage under the Ad Care Program. Bam 163 (July 2013), p. 2; RFT 242 (May 2015), p.1.

Clients who were ineligible for full coverage MA because of excess income are eligible for group 2 MA coverage, which provides for MA coverage with the deductible. BEM

105, p. 1. The deductible is the amount that the client's net income (less any allowable needs deductions) exceeds the applicable group 2 MA protected income level (PIL); the PIL is based upon where the Petitioner's shelter area is and the group size. BEM 105, p. 1; BEM 166 (July 2013), p.2; BEM 544 (July 2013, p.1; RFT 240, (December 2013), p. 1.

In this case, the Petitioner's PIL for an MA fiscal group size of one person living in Wayne County is \$ [REDACTED] RFT 200 (January 2015), p. 2. Thus, if the Petitioner's monthly net income less any allowable expenses is in excess of \$ [REDACTED] she may become eligible for MA under the MA deductible program. Allowable deductions include insurance premiums paid by the MA group and remedial services allowances for adult foster care home individuals for the aged. BEM 544 (July 2013), pp.1-3. In this case, as the budget which was presented was calculated for a Group 2 FIP-related MA case, it is incorrect and must be recalculated. In doing so, the Department must provide the \$ [REDACTED] disregard as required by Department policy and determine whether the Petitioner pays the Medicare Part B premium of \$ [REDACTED] as it is an insurance premium.

Based on the evidence presented the Department failed to meet its burden of proof to establish that it correctly calculated the Petitioner's deductible and thus must recalculate the MA deductible amount as it did not act in accordance with Department policy in calculating the deductible.

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 the Petitioner's MA deductible and failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the petitioner's MA deductible based upon an incorrect program.

DECISION AND ORDER

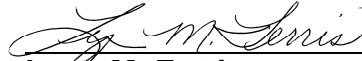
Accordingly, the Department's decision is **REVERSED**.

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. The Department shall recalculate the Petitioner's MA deductible for the SSI-related MA program in accordance with the findings in this Decision.

2. The Department shall provide the Petitioner written notice of its determination of the deductible amount.

LMF/jaf



Lynn M. Ferris
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]

cc:

[REDACTED]