



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: June 17, 2016  
MAHS Docket No.: 16-006155  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 June 13, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

### **ISSUE**

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) under the Group 2 Caretaker (G2C) program subject to a monthly \$195 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 was an ongoing recipient of MA benefits under the full-coverage TMA (Transitional Medicaid) program.
2. Petitioner lives in a household with her two minor children and her [REDACTED] year old child.
3. Petitioner receives \$1023 in monthly Retirement, Survivors and Disability Insurance (RSDI) benefits (Exhibit A, pp. 8-10). Her minor daughter receives \$227 in monthly RSDI benefits and employment income. Her minor son receives \$227

in monthly RSDI benefits and \$396 in monthly Supplemental Security Income (SSI) benefits.

4. On March 14, 2016, the Department sent Petitioner a redetermination requesting that she return the completed form to the Department by April 1, 2016 to determine her ongoing MA eligibility.
5. On March 26, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was eligible for MA with a monthly \$195 deductible effective May 1, 2016 (Exhibit A, pp. 13-18).
6. On March 31, 2016, the Department received Petitioner's completed redetermination (Exhibit A, pp. 2-7).
7. On May 2, 2016, the Department received Petitioner's request for hearing disputing the Department's actions concerning her MA case.

### **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 May 2, 2016 concerned that her MA case had been closed without notice. At the hearing, the Department testified that Petitioner's MA had never closed. It presented a March 26, 2016 Health Care Coverage Determination Notice that notified Petitioner that effective May 1, 2016 she was eligible for MA subject to a \$195 deductible (Exhibit A, pp. 13-18) and a May 9, 2016 Health Care Coverage Determination Notice sent after it processed her redetermination that notified her that effective May 1, 2016 she was eligible for MA subject to a \$195 deductible (Exhibit A, pp. 19-25). Therefore, the Department established that Petitioner had ongoing, uninterrupted MA coverage.

The Department explained that effective May 1, 2016 Petitioner was no longer eligible for full coverage under the TMA program because her 12 months of eligibility had

expired. When a client is no longer eligible for MA under one program, the Department must conduct an ex parte review to determine the client's ongoing MA eligibility under a different program. BAM 220 (October 2015), p. 17; BAM 210 (October 2015), p. 1. A client is entitled to the most beneficial MA category, which is the category which results in eligibility or the least amount of excess income. BEM 105, p. 2.

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 2016), p. 1. Because Petitioner is a Medicare recipient, she is not eligible for MA under the Healthy Michigan Plan (HMP). BEM 137 (January 2016), p. 1.

Petitioner, who receives RSDI benefits due to a disability (Exhibit A, pp. 8-10), is potentially eligible for MA under the AdCare program, which is available to disabled individuals who meet the income limit. BEM 163 (July 2013), p. 1. However, with monthly RSDI income of \$1023, Petitioner has income in excess of 100% of the federal poverty level (FPL) and therefore is ineligible for AdCare coverage. BEM 163, pp 1-2; RFT 242 (April 2016), p. 1.

As the parent caretaker of two minor children, Petitioner is potentially eligible for MA under the parent and caretaker relative/low income family (PCR/LIF) program, which is a Modified Adjusted Gross Income (MAGI) related MA category providing full-coverage MA. Disabled individuals with a dependent child whose household income exceeds the income limit for PCR/LIF or AdCare eligibility are eligible for MA under the Group 2 Caretaker Relative (G2C) program and under the Group 2 SSI-related (G2S) program, two non-MAGI programs that provide for MA eligibility subject to a monthly deductible for clients whose net income exceeds the income limit for eligibility. See BEM 105, pp. 1-2. Because eligibility under the G2C program results in a lower deductible than under the G2S program, the G2C program is more beneficial to a disabled caretaker than the G2S program.

The Department determined that Petitioner had excess income for PCR/LIF eligibility but was eligible for MA under the G2C program subject to a monthly \$195 deductible. The deductible for individuals eligible for Group 2 MA coverage is equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1. Based on Petitioner having monthly RSDI benefits of \$1023, living in Macomb County with two minor children in the household, and being unmarried, the Department acted in accordance with Department policy in determining that Petitioner had a monthly deductible of \$195 under the G2C program if that was the best available program for her.

However, because the PCR/LIF program, which lacks a deductible, is a more beneficial program than G2C, the Department was also required to consider Petitioner's eligibility for MA coverage under the PCR/LIF program. The Department testified that Petitioner was not income eligible for MA under the PCR/LIF program. A client whose group's income is under 54% of the FPL for the applicable group size is eligible for LIF. BEM 110 (January 2014), p. 1; BEM 211 (January 2016), p. 1. An individual's group size for MAGI purposes requires consideration of the client's tax filing status. BEM 211, p. 1.

In this case, the Department explained that at the time it sent Petitioner the March 26, 2016 Health Care Coverage Determination, Petitioner had indicated that she was not a tax filer and it was assumed she was not a tax dependent. Therefore, for MAGI purposes, her household consists of her and, assuming her 19 year old attended college as indicated in her redetermination, her three children. Therefore, she has a household size of four, consistent with the Department's conclusion of the household size. BEM 211 (October 2016), pp. 1-2. 54% of the annual FPL in 2016 for a household with four members is \$13,122. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for coverage under PCR/LIF, Petitioner's household group's annual income cannot exceed \$13,122.

Petitioner, who receives \$1023 in monthly RSDI income, has annual income of \$12,276. Therefore, she is not ineligible for LIF based on her own income. The Department testified that there was additional income received by the children: RSDI benefits by one child, RSDI and earned income by a second child, and SSI benefits by the third child.

As a general rule, household income is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to five percentage points of the FPL for the applicable family size. 42 CFR 435.603(d)(1). However, SSI income is not countable income for determining MAGI eligibility. MREM, § 7.2. RSDI income *may* be countable income for MAGI-related MA determinations. MREM, § 7.2. However, the MAGI-based income of an individual who is included in the household of his or her natural parent and is not expected to be *required* to file a tax return under federal law for the taxable year in which Medicaid eligibility is being determined is not included in the household income, whether or not such individual files a tax return. 42 CFR 435.603(d)(2)(i).

In this case, the Department has failed to establish that Petitioner's children are required to file taxes for 2016. Because only the MAGI-income of any child who is required to file taxes would be considered in determining Petitioner's eligibility for MAGI-related MA programs and if none of the children are required to file taxes, Petitioner would be income-eligible for MA under the PCR/LIF program, 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the most beneficial MA program Petitioner was eligible for was the G2C 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. Redetermine Petitioner's MA eligibility for May 1, 2016 ongoing;
2. Provide Petitioner with MA coverage she is eligible to receive from May 1, 2016 ongoing; and
3. Notify Petitioner in writing of its decision.



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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