



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: October 18, 2016
MAHS Docket No.: 16-011292
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, an in-person hearing was held on [REDACTED], from Southfield, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly provide Petitioner with Medical Assistance (MA) coverage she is eligible to receive from November 30, 2015, 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. On [REDACTED], Petitioner submitted an online Redetermination (DHS-1010). Exhibit A, pp. 35-43.
2. In the Redetermination, Petitioner reported that she was pregnant with an expected due date of [REDACTED]. Exhibit A, p. 39.
3. The Department then subsequently processed Petitioner's Redetermination.
4. On [REDACTED], the Department sent Petitioner a Determination Notice notifying her that she was found eligible for Transitional Medical Assistance (TMA) (full

coverage) from [REDACTED], and Group 2 Pregnant Women (G2P) – MA coverage from [REDACTED], ongoing (with a \$ [REDACTED] monthly deductible). Exhibit A, pp. 24-32.

5. In the Determination Notice, the notice stated that Petitioner was not eligible for Pregnant Women Medicaid (PW) coverage because she was not pregnant. Exhibit A, p. 25.
6. On [REDACTED], Petitioner gave birth to her child.
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

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

As a preliminary matter, Petitioner also disputed the type of MA coverage her family members were approved for in the determination notice. Exhibit A, pp. 2 and 24. However, during the hearing, Petitioner indicated that she is only disputing her MA coverage. As such, the undersigned will only address Petitioner's MA coverage below:

MA coverage

On [REDACTED], Petitioner submitted an online Redetermination (DHS-1010) in which she reported that she was pregnant with a due date of [REDACTED]. Exhibit A, p. 39. The Department then subsequently processed Petitioner's Redetermination. On [REDACTED], the Department sent Petitioner a Determination Notice notifying her that she was found eligible for TMA (full coverage) from [REDACTED] and G2P from [REDACTED], ongoing (with a \$ [REDACTED] monthly deductible). Exhibit A, pp. 24-32. In the Determination Notice, the notice stated that Petitioner was not eligible for PW coverage because she was not pregnant. Exhibit A, p. 25. As a result of

the Determination Notice, Petitioner filed a hearing request protesting the type of MA coverage provided by the Department.

At the hearing, the Department testified that based on The Work Number and upon processing the Redetermination, Petitioner has excess income for full MA coverage, resulting in monthly deductible of \$ [REDACTED]. See Exhibit A, p. 44 (Hearing Summary). Moreover, the Department testified that Petitioner provided bills on [REDACTED], for [REDACTED] expenses, which did not meet the deductible amount of \$ [REDACTED]. Exhibit A, p. 44 (Hearing Summary).

In response, Petitioner made the following arguments and/or assertions: (i) she reported her pregnancy on [REDACTED], and was on TMA coverage that time, but should have been changed; (ii) she pointed out policy from BEM 545 that Group 2 Pregnant Women, the deductible for a pregnant woman is usually met at the first office visit because the woman incurs the full cost of the obstetric (OB) services (including labor and delivery) at her first OB visit (BEM 545 (January 2016), pp. 1-2); (iii) she argued that she should have been found eligible for either PW or G2P from the time she reported her pregnancy, not TMA; (iv) the determination notice erroneously stated that she was not a pregnant individual (Exhibit A, p. 25); and (v) the deductible amount is incorrect. Exhibit A, pp. 2-3 (Hearing Request).

Here are the following three MA category policies that are at issue in this case:

First, Transitional Medical Assistance (TMA) is an automatic coverage group. BEM 111 (April 2015), p. 1. Transitional Medical Assistance (TMA) eligibility is only considered after Low-Income Family MA (LIF). BEM 111, p. 1. Individuals may receive TMA for up to 12 months when ineligibility for LIF relates to income from employment of a caretaker relative. BEM 111, p. 1. TMA starts the month in which LIF ineligibility began regardless of when the LIF eligibility actually ended. BEM 111, p. 1. A new or updated application for healthcare coverage is not required to transfer to Transitional Medical Assistance (TMA). BEM 111, p. 1. TMA eligibility continues until the end of the 12-month TMA period unless:

- A change is reported, such as decreased earned income, and the family is eligible for LIF; or

Note: The family might qualify for TMA or Special N/Support if they again become ineligible for LIF.

- For individual members, information is reported indicating that a member does not meet the MA requirements in:
 - o BEM 220, Residence.
 - o BEM 257, Third Party Resource Liability.
 - o BEM 265, Institutional Status.

If a member loses TMA eligibility during the 12-month period based on BEM 220, 257 or 265, but the reason for ineligibility ceases, TMA eligibility exists again.

Eligibility restarts the month ineligibility ceased and continues for the remainder of the 12-month period. The beneficiary is responsible for reporting the change that re-establishes eligibility.

BEM 111, pp. 1-2.

Second, Pregnant Women Medicaid (MA) is a MAGI-related Group 1 MA category. BEM 125 (January 2016), p. 1. MA is available to a woman while she is pregnant, the month her pregnancy ends, and during the two calendar months following the month her pregnancy ended regardless of the reason (for example, live birth, miscarriage, stillborn). BEM 125, p. 1. Medicaid cannot be terminated during pregnancy or post-partum period unless the woman requests the closure, moves out of state or dies. BEM 125, p. 1. All eligibility factors in this item must be met. BEM 125, p. 1. Her fiscal group's net income cannot exceed 195 percent of the poverty level. BEM 125, p. 1. All nonfinancial eligibility factors must be met in the calendar month being tested. BEM 125, p. 1.

A woman who is income eligible for one calendar month based on the income limit is automatically income eligible for each following calendar month through the second calendar month after the month her pregnancy ends. BEM 125, p. 3.

An income test is not required when determining continuing eligibility for a pregnant woman whose eligibility under another MA category (including FIP and SSI) is terminating. BEM 125, p. 3. This includes a woman who is Group 2 eligible for only a portion of a month due to incurred medical expenses; see BEM 545. BEM 125, p. 3. The woman who is eligible for and receiving under another MA category is automatically income eligible for Pregnant Women through the second calendar month after the month her pregnancy ends. BEM 125, p. 3.

Third, Group 2 Pregnant Women (G2P) is a Group 2 Medicaid category. BEM 126 (January 2016), p. 2. A woman who is eligible for, and receiving, Medicaid when her pregnancy ends and remains otherwise eligible may continue receiving Medicaid benefits for the two calendar months following the month her pregnancy ended. BEM 126, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 126, p. 1. Income eligibility exists when net income does not exceed Group 2 needs in BEM 544. BEM 126, p. 2. If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. BEM 126, p. 2. The deductible for a pregnant woman is usually met at the first office visit because the woman incurs the full cost of the obstetric (OB) services (including labor and delivery) at her first OB visit. BEM 126, p. 2. Her coverage should then be updated to MAGI-related Pregnant Women (PW) for the remainder of the pregnancy and two months post-partum; see BEM 545. BEM 126, p. 2.

Finally, persons may qualify under more than one MA category. BEM 105 (January 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 or the least amount of excess income. BEM 105, p. 2.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly determined Petitioner's eligibility for the most beneficial MA category upon processing the redetermination.

First, the Department determined that Petitioner was eligible for TMA from [REDACTED], but then converted her to G2P from [REDACTED] ongoing (with a monthly deductible). Individuals may receive TMA for up to 12 months unless ineligibility incurs. See BEM 111, pp. 1-2. Here, the evidence only showed that Petitioner received TMA from [REDACTED], which is less than 12 months. The Department failed to provide any evidence showing if whether [REDACTED] was the last month she was eligible for TMA or her continued eligibility terminated.

Second, the Department failed to establish what type of MA coverage Petitioner received from [REDACTED].

Third, the Department indicated in the determination notice that Petitioner was not eligible for PW because she was not pregnant. Exhibit A, p. 6. This is incorrect, Petitioner notified the Department in her Redetermination dated [REDACTED], that she was pregnant. Exhibit A, pp. 35 and 39. Thus, the undersigned finds the evidence persuasive that the Department did not process the redetermination correctly. Now, Petitioner might not be eligible for PW due to excess income, but the denial for PW was based on her not being pregnant and not excess income.

Fourth, the Determination Notice indicated that Petitioner's G2P deductible was \$ [REDACTED] effective [REDACTED]. See Exhibit A, p. 5. However, the Department presented a budget showing that the deductible was \$ [REDACTED] for [REDACTED]. Exhibit A, p. 23. Thus, this is another issue as well to the calculation of the deductible because there is over a \$ [REDACTED] difference unaccounted for.

In summary, the undersigned Administrative Law Judge (ALJ) points these errors above to conclude that the Department did not process the redetermination appropriately; and therefore, did not properly determine Petitioner's MA eligibility for [REDACTED] ongoing. As such, the Department will redetermine Petitioner's MA eligibility from [REDACTED], ongoing, in accordance with Department policy. See BEM 105, p. 2.

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 the Department **failed** to

satisfy its burden of showing that it properly processed Petitioner's MA eligibility from [REDACTED], ongoing.

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 from [REDACTED];
2. Issue supplements to Petitioner for any MA benefits she was eligible to receive but did not from [REDACTED]; and
3. Notify Petitioner of its decision.

EJF/jaf



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]

Petitioner

[REDACTED]

Via email

[REDACTED]