



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 10, 2016
MAHS Docket No.: 16-012189
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, an in-person hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself and her husband, [REDACTED], who also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine that the Petitioner was eligible for Medical Assistance (MA) subject to a spend-down?

FINDINGS OF FACT

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

1. The Department issued a Health Care Coverage Determination Notice (HCCDN) on [REDACTED], approving the Petitioner for MA subject to a \$[REDACTED] spenddown. Exhibit 2.
2. The Petitioner previously had full MA Coverage.
3. The Petitioner's spouse is employed and had monthly earnings for the period [REDACTED] of \$[REDACTED] Exhibit 5. The Petitioner's spouse also receives Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$[REDACTED] Exhibit 4.

4. The Petitioner's spouse also pays a Medicare Part B premium in the amount of \$ [REDACTED] Exhibit 4.
5. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's action.

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 Department found, based upon the Petitioner's MA group consisting of the Petitioner and her husband, that the group income exceeded the group income limit. The Department, after verifying the Petitioner's spouse's month income for [REDACTED] [REDACTED] determined that the monthly unearned income received by the group was \$ [REDACTED]. In addition, the Petitioner spouse has earned income from employment in the amount of \$ [REDACTED] resulting in net earned income of \$ [REDACTED]. The Petitioner sought review of the Department's determination of the deductible amount of \$ [REDACTED] per month.

The SSI-related MA spend-down budget determination was reviewed at the hearing. Based upon that review, the Department correctly applied the monthly income amount of \$ [REDACTED] for RSDI and earned income of \$ [REDACTED]. The Department is required to reduce earned income by deducting the earned income disregard from the gross income. The disregard is determined by adding \$ [REDACTED] to the total earned income and taking 50% of that total. ($\$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED] \div 2 = \$ [REDACTED]$). The result of \$ [REDACTED] is then deducted from the gross earned income to determine the Net Earned income of \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). Exhibit 3.

The Department is also required to reduce the RSDI unearned income by \$ [REDACTED] resulting in net unearned income of \$ [REDACTED] ($\$ [REDACTED] - \$ [REDACTED] = \$ [REDACTED]$). See BEM 163, p. 2; BEM 530 (October 1, 2012); BEM 541 (January 1, 2011), p. 5. Exhibit 3.

The net earned income is then added to the unearned income total for RSDI to determine Net Income which in this case is \$ [REDACTED] ($\$ [REDACTED] + \$ [REDACTED] = \$ [REDACTED]$).

The Department is also required to deduct the cost of insurance premiums, which it failed to do; and thus, the budget as presented **is incorrect** in that regard as the Petitioner pays Medicare Part B premium of \$[REDACTED] which must be deducted. When this change is made, the Petitioner's Net Income is changed to \$[REDACTED] Exhibit 3.

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA Protected Income Levels (PIL) based on their shelter area and fiscal group size, are eligible for MA coverage under the deductible program with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (January 2011), p. 2; BEM 544 (August 2008), p. 1; BEM 545 (July 2011), p. 2; RFT 240 (July 2007), p. 1.

In this case, the monthly PIL for an MA group of two living in [REDACTED] County is \$[REDACTED] BEM 211 (November 2012), p. 5; RFT 200 (July 2007), p. 1; RFT 240, p. 1. Therefore, Petitioner's MA coverage is subject to a deductible if Petitioner's monthly net income, based on his/her gross income, is greater than \$[REDACTED]. The final step is to deduct the \$[REDACTED] PIL from the net income of \$[REDACTED] which results in a deductible of \$[REDACTED].

With this Net Income result of \$[REDACTED] the Petitioner's monthly net income exceeds the Ad-Care (full Medicaid) limit of \$[REDACTED] for a group of two individuals; and thus, the Department correctly determined that the Petitioner based upon income of \$[REDACTED] is not eligible for full MA without a deductible. RFT 242, p. 1, (April 1, 2015).

Based upon this outcome, it is determined that while the Department properly determined that the Petitioner was subject to a deductible, the Department's actual deductible amount was incorrect as it did not include an expense for the Medicare Part B premium.

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 did not act in accordance with Department policy when it did not include the Medicare Part B premium expense when determining the deductible.

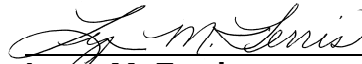
Accordingly, the Department's decision is **REVERSED**.

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 spenddown deductible to include the expense of the cost of the Part B insurance premium.

2. The Department shall provide the Petitioner a written notice of its redetermination 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]

Via email

[REDACTED]