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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: October 31, 2016
MAHS Docket No.: 16-012510
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 October 26, 2016, from Inkster, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUES

Did the Department properly calculate Petitioner's Medical Assistance (MA) - Group 2 Caretaker Relatives (G2C) coverage with a monthly [REDACTED] deductible for July 1, 2016, ongoing?

Did the Department properly provide Petitioner's with MA coverage he is eligible to receive from July 1, 2016?

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 is an ongoing recipient of MA – G2C coverage.
2. Petitioner's household size is three (Petitioner, spouse, and their minor child).
3. Petitioner receives a gross monthly Retirement, Survivors, and Disability Insurance (RSDI) income of [REDACTED]. Exhibit A, p. 6.

4. On August 16, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that he was eligible for MA benefits effective July 1, 2016, ongoing (with a \$[REDACTED] monthly deductible). Exhibit A, p. 5. Petitioner's Eligibility Summary indicated he was eligible for MA - Group 2 Spend-Down (G2S) benefits, subject to the deductible. Exhibit A, p. 9.
5. On an unspecified date, the Department redetermined Petitioner's eligibility and found him eligible for MA – G2C coverage instead, subject to an [REDACTED] monthly deductible, effective July 1, 2016, ongoing, due to the presence of a minor child in the home. Exhibit A, pp. 10-11.
6. On August 29, 2016, 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 matters

First, it was discovered during the hearing that Petitioner's Medicare Savings Program (MSP) benefits closed effective October 1, 2016. On September 17, 2016, the Department sent Petitioner a determination notice notifying him that his MSP benefits would close effective October 1, 2016. Exhibit A, pp. 13-15. Petitioner wanted to dispute the closure of his MSP benefits. The undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address his MSP closure because this negative action occurred subsequent to his hearing request. Exhibit A, pp. 2-3. Petitioner can request another hearing to dispute his MSP closure. BAM 600 (October 2015), p. 6 (the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).

Second, Petitioner also appeared to dispute his State Emergency Relief (SER) application during the hearing. Again, the undersigned lacks the jurisdiction to address

Petitioner's concerns related to the SER benefits because he failed to dispute this program in the hearing request. Exhibit A, pp. 2-3.

Third, it was determined during the hearing that Petitioner was initially found eligible for MA - G2S coverage, subject to a [REDACTED] deductible. Exhibit A, pp. 5 and 9. However, on an unspecified date, the Department redetermined Petitioner's eligibility and found him eligible for MA – G2C coverage, subject to an [REDACTED] monthly deductible because of the presence of a minor child in the home. Exhibit A, pp. 10-11. As such, the undersigned will address the following: (i) whether the Department provided Petitioner with the most beneficial MA category; and (ii) whether the Department properly calculated Petitioner's MA – G2C (hereinafter referred to as "G2C") deductible effective July 1, 2016.

Most Beneficial Program

In the present case, Petitioner argued that the deductible coverage provided by the Department was inadequate. See Exhibit A, p. 3. Petitioner is 73-years-old, he has a minor child in the home and his spouse also resides with him, and he receives a monthly gross RSDI income of [REDACTED]

Persons may qualify under more than one MA category. BEM 105 (July 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, the least amount of excess income or the lowest cost share. BEM 105, p. 2.

Based on the foregoing information, the evidence and testimony is persuasive to conclude that the Department acted in accordance with Department policy when it processed Petitioner's eligibility for the most beneficial MA category for July 1, 2016, ongoing. BEM 105, pp. 2-5. In this case, Petitioner's most beneficial MA category was G2C based on the evidence and testimony presented.

G2C deductible

In this case, Petitioner argued that the deductible was excessive. In response, the Department argued that the G2C deductible was properly calculated. As such, the undersigned addressed whether the Department properly calculated Petitioner's G2C deductible effective July 1, 2016. The Department presented the July 2016 budget for review. Exhibit A, p. 10.

G2C is a Group 2 MA category. BEM 135 (October 2015), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 2.

The Department also uses the fiscal group policies for Group 2 Medicaid in BEM 211. BEM 135, p. 2. In the present case, the Department is determining Petitioner's eligibility; therefore, the Department can only use his income in determining eligibility as well as his spouse's income, if she even has any income. See BEM 211 (January 2016), p. 8.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (April 2016), p. 1. In this case, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Therefore, a budgetable income will be determined for Petitioner. See BEM 536, p. 1.

First, a budgetable income will be done to determine the adult's (Petitioner's) prorated income. The evidence established that Petitioner's gross RSDI income (unearned) is [REDACTED] Exhibit A, pp. 6-7 (State On-Line Query) and 10. However, Petitioner argued that his income should be calculated less because income is currently being withheld from his RSDI check to pay for a student loan debt. Petitioner presented a letter from the Department of the Treasury – Bureau of the Fiscal Service dated October 3, 2016, which states that [REDACTED] is currently being withheld from his RSDI check to pay a debt he owes to the U.S. Department of Education. See Exhibit 1, p. 2. In response, the Department disagrees.

Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500 (January 2016), p. 4. This may be more than the actual amount an individual receives. BEM 500, p. 4.

BEM 500, Income Overview, further discusses policy relating to garnishment or other withholdings. See BEM 500, pp. 4-5.

Gross income includes amounts withheld from income which are any of the following:

- Voluntary.
- To repay a debt.
- To meet a legal obligation.

Some examples of amounts which may be withheld, but are still considered part of gross income are:

- Income taxes.
- Health or life insurance premiums.
- Medicare premiums.
- Union dues.
- Loan payments.
- Garnishments.
- Court-ordered or voluntary child support payments.

Based on the above policy, the Department properly determined that Petitioner's gross income will include the amount withheld from his RSDI check to pay for his student loan debt. Policy clearly states that gross income includes amounts withheld from income, which includes the amount to repay a debt. See Exhibit A, p. 4. This is similar to Petitioner's situation in which he is currently repaying his debt for his student loans. As such, the evidence established that Petitioner's gross income is [REDACTED] for July 2016 and his repayment debt for student loans cannot be excluded from the gross income. See BEM 500, pp. 4-5.

The Department will then determine the number of dependents living with the fiscal group member. BEM 536, p. 4. The Department does not count the member being processed as a dependent. BEM 536, p. 4. Petitioner's number of dependents is two (spouse plus minor child). The Department then adds 2.9 to Petitioner's number of dependents (two), which results in a prorated divisor of 4.9. BEM 536, p. 4. The Department will then divide Petitioner's total net income by the prorated divisor, which results in the adult's prorated share amount of [REDACTED] net income divided by 4.9 prorated divisor). BEM 536, p. 4 and Exhibit A, p. 10.

Then, an adult's fiscal group's net income is the total of the following amounts:

- The adult's net income ("Fiscal Group Member's Total Net Income") if the adult has no dependents or 2.9 prorated shares of the adult's own income if the adult has dependents (adult's "Step 13" times 2.9), plus
- If the spouse is in the adult's fiscal group:
 - 3.9 prorated shares of the spouse's own income (spouse's "Step 13" times 3.9), plus
 - one prorated share of the adult's (person requesting MA) income (adult's amount from "**Step 13**").

Note: This is the couple's share of each other's income.

BEM 536, pp. 6-7.

Applying the above policy, the Department calculated an adult's share of adult's own income of [REDACTED] ([REDACTED] times 2.9). See BEM 536, p. 6 and Exhibit A, p. 10. Plus, the spouse's share of spouse's own income, which is [REDACTED] (the spouse has no income). See BEM 536, p. 6 and Exhibit A, p. 10. Plus, the couple's share of each others income, which is [REDACTED] (one prorated share of the adult's (persons requested MA) income. See BEM 536, pp. 6-7 and Exhibit A, p. 10. When all of these amounts are added together, this results in a total net income of [REDACTED]. See Exhibit A, p. 10.

Next, the Department does provide budget credits, which can reduce the total net income and more importantly, the deductible amount. However, evidence established that he did not qualify for any of the budget credits (i.e., both parties agreed that for July 2016, Petitioner was not responsible for his [REDACTED] insurance premium). Exhibit A, p. 10. However, Petitioner did present evidence that he was responsible for car insurance, food, clothing, vehicle repairs, utility expenses, phone bill, etc...and wanted these amounts to be taken into consideration for his deductible calculation. Exhibit 1, pp. 3-6. But, policy does not allow these personal expenses to be taken into consideration and applied as a deduction. As such, the Department properly determined that Petitioner's countable net income was [REDACTED]. Exhibit A, p. 10.

Finally, clients are eligible for full MA coverage when net income does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; and RFT 200 (December 2013), pp. 1-2. In this case, the monthly PIL for an MA group of two (Petitioner and spouse) living in [REDACTED] County is [REDACTED] per month. RFT 200, pp. 1-2; and RFT 240, p. 1.

An individual whose income is in excess of the applicable monthly PIL may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly net income exceeds the applicable PIL. BEM 135, p. 2 and BEM 545 (July 2016), p. 2. Because Petitioner's monthly total net income of [REDACTED] exceeds the [REDACTED] PIL by [REDACTED] the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA coverage under the G2C program with a monthly deductible of [REDACTED] effective July 1, 2016.

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 (i) the Department acted in accordance with Department policy when it processed Petitioner's eligibility for the most beneficial MA category for July 1, 2016, ongoing; and (ii) the Department acted in accordance with Department policy when it properly calculated Petitioner's G2C deductible effective July 1, 2016.

Accordingly, the Department's MA decision is **AFFIRMED**.

EF/tm



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]
[REDACTED]
[REDACTED]
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CC:

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