



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: December 2, 2016
MAHS Docket No.: 16-014561
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 Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payment Worker.

ISSUES

1. Did the Department properly provide Petitioner with Medical Assistance (MA) coverage she is eligible to receive from [REDACTED], ongoing?
2. Did the Department properly calculate Petitioner's MA – Group 2 Spend-Down (G2S) deductible effective [REDACTED], 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. Petitioner is an ongoing recipient of MA benefits.
2. Petitioner is [REDACTED] years old, her household size is one; and she is disabled.
3. Petitioner's income consists of her monthly \$[REDACTED] in Retirement, Survivors, and Disability Insurance (RSDI) income, [REDACTED] in monthly RSDI income as a survivor from her deceased spouse, and \$[REDACTED] in monthly pension income. Exhibit A. pp. 4-6.

4. On or about [REDACTED], Petitioner submitted a Redetermination; and while processing the Petitioner's MA eligibility, the Department determined that she was eligible for G2S coverage, subject to a deductible.
5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her MA benefits would close effective [REDACTED], due to excess income. Exhibit B, pp. 7-10.
6. The Department reprocessed Petitioner's eligibility and determined that she was eligible for G2S coverage, subject to an \$[REDACTED] deductible for [REDACTED], and a \$[REDACTED] deductible effective [REDACTED]. Exhibit B, pp. 1 and 3.
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. Exhibit A, p. 2.

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, prior to the commencement of the hearing, Petitioner had an Authorized Hearing Representative (AHR)/counsel present for the hearing to represent her. However, at the commencement of the hearing, Petitioner revoked her counsel's authorization to represent her for the hearing; and the hearing proceeded without Petitioner having any representation. Also, the Department switched representatives prior to the hearing due to potentially a conflict of interest with Petitioner.

Second, Petitioner testified that she is not disputing her Medicare Savings Program (MSP) benefits.

Third, it was determined during the hearing that multiple determination notices were issued to Petitioner. For example, one determination notice informed Petitioner that her MA benefits would close (Exhibit, pp. 7-8); but it was later determined that her MA

benefits did not close, and she received coverage, subject to a deductible, resulting in another determination notice being issued. Ultimately, based on Petitioner's hearing request and her testimony, the undersigned Administrative Law Judge (ALJ) will address the following issues separately: (i) whether the Department processed Petitioner's eligibility for the most beneficial MA category for [REDACTED]; (ii) whether the Department properly calculated Petitioner's G2S deductible for [REDACTED]; and (iii) whether the Department properly calculated Petitioner's G2S deductible for [REDACTED], ongoing.

Most Beneficial Program

In the present case, Petitioner argued that the deductible coverage provided by the Department was inadequate. Petitioner is [REDACTED] years old; her household size is one; she is disabled; her total gross monthly income is \$[REDACTED] which consists of RSDI income (her and as a survivor of her deceased spouse's RSDI income) and pension.

Persons may qualify under more than one MA category. BEM 105 (July 2016 and October 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 [REDACTED], [REDACTED] ongoing. BEM 105, pp. 2-5. In this case, Petitioner's most beneficial MA category was G2S based on the evidence and testimony presented. Petitioner previously received ongoing AD-Care coverage, which is full Medicaid coverage. But, Petitioner is no longer eligible for AD-Care coverage due to excess income. See Exhibit B, p. 2, (AD-Care budget showing her income exceeds the limits); and RFT (October 2016), p. 1, (AD-Care income limits).

MA – G2S deductible for October 2016

Next, Petitioner may still receive MA benefits subject to a monthly deductible through the G2S program. In this case, Petitioner was found eligible for G2S subject to an \$[REDACTED] deductible for [REDACTED]. Exhibit B, p. 1. The undersigned will now determine if the Department properly calculated Petitioner G2S budget for [REDACTED].

In the present case, Petitioner's group size is one; and she resides in [REDACTED] County. The Department presented Petitioner's G2S budget for the benefit period of [REDACTED]. See Exhibit B, p. 1.

G2S is an SSI-related Group 2 MA category. See BEM 166 (July 2013), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

In this case, the budget indicated that Petitioner's gross total unearned income was \$ [REDACTED] however, the evidence established that Petitioner's total gross income was \$ [REDACTED] Exhibit B, p. 1. Petitioner's \$ [REDACTED] income consisted of the following: (i) \$ [REDACTED] in her monthly RSDI income; (ii) \$ [REDACTED] in her monthly RSDI income as a survivor from her deceased spouse; and (iii) \$ [REDACTED] in monthly pension income. Exhibit A, pp. 4-6; and see BEM 503 (July 2016), pp. 27-28. (The Department counts the gross benefit amount as unearned income for RSDI income and private pensions.) As such, the undersigned ALJ finds that the Department miscalculated Petitioner's gross unearned income. The Department is ordered to recalculate Petitioner's gross unearned income for [REDACTED] in accordance with Department policy. See BEM 503, pp. 27-28.

Additionally, the Department miscalculated Petitioner's insurance premium deduction. The Department does provide budget credits, which can reduce the total net income and more importantly, the deductible amount. In this instance, policy allows that Department to take into account health insurance premiums. Policy states that the Department counts as a need item the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the medical group (defined in "EXHIBIT I") regardless of who the coverage is for. BEM 544 (July 2016), p. 1. In this case, the evidence indicated that Petitioner is responsible for her \$ [REDACTED] Medicare Part B premium. Exhibit B, p. 4. However, the budget showed that it only calculated Petitioner's insurance premium to be \$ [REDACTED] which is obviously incorrect. Exhibit B, p. 1. Because the Department miscalculated the health insurance premium in the budget, the Department did not act in accordance with Department policy when it calculated Petitioner's MA budget for [REDACTED]. See BEM 544, pp. 1-2. The Department is ordered to recalculate the insurance premium as well for [REDACTED].

As side note, the undersigned ALJ will not address the remaining calculations in the [REDACTED] budget because these figures will change upon the Department properly calculating the unearned income and insurance premium.

MA – G2S deductible for November 2016

Now, the undersigned ALJ also reviewed the G2S budget for [REDACTED] because the deductible amount was different from [REDACTED]. Effective [REDACTED], the budget shows that the deductible was \$ [REDACTED] Exhibit B, p. 3. It should be noted that some of the discussions below might seem repetitive from the above analysis.

In this case, the Department this time properly calculated Petitioner's gross total unearned income to be \$ [REDACTED] Exhibit B, p. 3.

The Department then properly subtracted the \$ [REDACTED] disregard to establish Petitioner's total net unearned income of \$ [REDACTED] Exhibit B, p. 3; and BEM 541 (January 2016), p. 3.

Next, the Department does provide budget credits, which can reduce the total net income and more importantly, the deductible amount. This time, the Department properly calculated Petitioner's medical insurance premium deduction of \$ [REDACTED] resulting in her total countable income being \$ [REDACTED] Exhibit B, p. 3.

Finally, individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, p. 1; BEM 166, p. 2; BEM 544, p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one living in Wayne County is \$ [REDACTED] per month. RFT 200 (December 2013), pp. 1-2, and RFT 240, p. 1. Moreover, an individual whose monthly income is in excess of \$ [REDACTED] may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the group's monthly income exceeds the PIL. BEM 545 (July 2016 and October 2016), p. 1.

Based on the above policy, Petitioner's countable income of \$ [REDACTED] for MA purposes exceeds the monthly protected income level of \$ [REDACTED] by \$ [REDACTED] Exhibit B, p. 3. Thus, the Department properly calculated Petitioner's G2S deductible to be \$ [REDACTED] effective [REDACTED] in accordance with Department policy.

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 [REDACTED], ongoing; (ii) the Department did not act in accordance with Department policy when it improperly calculated Petitioner's MA – G2S deductible for [REDACTED]; and (iii) the Department acted in accordance with Department policy when it properly calculated Petitioner's MA – G2S deductible for [REDACTED].

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the Petitioner's MA – G2S eligibility for the most beneficial program and the [REDACTED] MA deductible calculation and **REVERSED IN PART** with respect as to the calculation of the MA deductible for [REDACTED].

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. Begin recalculating the MA budget for [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).

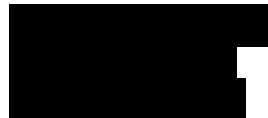
A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for 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



Petitioner

