



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: December 20, 2016
MAHS Docket No.: 16-016842
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, a telephone hearing was held on December 8, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator; and [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly provide Petitioner with MA coverage she is eligible to receive from November 1, 2016, ongoing?

Did the Department properly calculate Petitioner's MA – Group 2 Spend-Down (G2S) deductible effective November 1, 2016, 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 53-years-old, her household size is one, and she is disabled.
3. Petitioner's income consists of [REDACTED] in monthly Retirement, Survivors, and Disability Insurance (RSDI) income.

4. On June 23, 2016, 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. Exhibit A, p. 1 (Hearing Summary).
5. On September 30, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was eligible for MA coverage effective November 1, 2016 (with a [REDACTED] deductible); and that she was eligible for full coverage Medicare Savings Program (MSP) effective August 1, 2016. Exhibit A, pp. 4-6.
6. On November 1, 2016, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2 and 7.

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 first indicated that she requested the hearing because she needed assistance in enrolling in her health plan. However, this is not a hearable issue that the undersigned Administrative Law Judge (ALJ) can address. The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For **FAP only**, the current level of benefits or denial of expedited service.

BAM 600 (October 2015 and October 2016), pp. 4-5 (see MA only regarding community spouse and initial asset assessment policy).

In this case, Petitioner's request for assistance in the enrollment of her health plan does not fall within any of the above hearable issues. See BAM 600, pp. 4-5 and see BAM 402 (October 2015), pp. 1-22 (Health Plan enrollment policy). As such, the undersigned ALJ lacks the jurisdiction to address Petitioner's concerns as it relates to the assistance in the enrollment of her health plan. Nonetheless, Petitioner provided further testimony in which she disputed the type of MA coverage she received as well as the amount of her deductible. These concerns the undersigned ALJ can address, which are addressed below.

Most Beneficial Program

In the present case, Petitioner argued that the deductible coverage provided by the Department was inadequate. Petitioner is 53-years-old, her household size is one, she is disabled, and her total gross monthly income is [REDACTED], which consists of her RSDI income.

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 November 1, 2016, ongoing. BEM 105, pp. 2-5. In this case, Petitioner's most beneficial MA category was G2S based on the evidence and testimony presented.

MA – G2S deductible

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 a [REDACTED] deductible for November 1, 2016, ongoing.

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 November 2016. Exhibit A, p. 3.

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 Department properly calculated Petitioner's gross total unearned income to be [REDACTED] which consisted of her RSDI income. Exhibit A, p. 3 and see BEM

503 (July 2016), pp. 27-28 (The Department counts the gross benefit amount as unearned income for RSDI income).

The Department then properly subtracted the [REDACTED] disregard to establish Petitioner's total net unearned income of [REDACTED]. Exhibit A, 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. However, Petitioner did not meet any of these deductions. The Department indicated that Petitioner did submit a one-time-only medical expense from [REDACTED] hospital for [REDACTED] on July 11, 2016, which was budgeted. Exhibit A, p. 1. However, the Department testified that it had not received any additional medical expenses from Petitioner thereafter to budget. See Exhibit A, p. 1. Petitioner did not present any medical bills for the hearing record. As such, the Department properly calculated Petitioner's total countable income to be [REDACTED]. Exhibit A, 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 (July 2016), p. 1; and RFT 240 (December 2013), p. 1. The monthly PIL for an MA group of one living in [REDACTED] 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]. Exhibit A, p. 3. Thus, the Department properly calculated Petitioner's G2S deductible to be [REDACTED] effective November 1, 2016, 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 November 1, 2016, ongoing; (ii) the Department acted in accordance with Department policy when it properly calculated Petitioner's MA – G2S deductible for November 1, 2016; and (iii) the undersigned ALJ lacks the jurisdiction to address Petitioner's concerns as it relates to the enrollment of her health plan.

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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[REDACTED]

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CC:

[REDACTED]
[REDACTED]