



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: January 30, 2017
MAHS Docket No.: 16-018109
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, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED] and [REDACTED], Guardians for [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine the Petitioner's Medical Assistance (MA) deductible (spenddown)?

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 Petitioner is disabled and received Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED] at the time the Petitioner's spenddown was determined. Exhibit A.
2. The Department has determined, based upon the Petitioner's unearned income and protected income level, that Petitioner is eligible for MA subject to a deductible of \$ [REDACTED]

3. The Department issued a Health Care Coverage Determination Notice on [REDACTED], finding Petitioner eligible for MA subject to a spenddown of \$ [REDACTED] Exhibit C.

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 Petitioner is a recipient of RSDI and is disabled. The Department, based upon Petitioner's income from RSDI, placed the Petitioner on a spenddown of \$ [REDACTED] Exhibits B and C. The Petitioner sought to have her medical expenses associated with the facility where she lives used as a deductible medical expense against the Petitioner's spenddown amount; however, at the time of the hearing, no bills associated with Petitioner's medical care and expenses in her current facility had been presented to the Department for review and approval.

The Petitioner's Guardians requested a review of the Department's determination of the Petitioner's MA spenddown amount and whether the Department correctly calculated the spenddown. A review of the spenddown budget was made at the hearing, and it was conceded that the Department should have included Petitioner's health insurance premium for Medicare Part B in the amount of \$ [REDACTED] Exhibit C. Thus, the budget as presented was incorrect and must be corrected because the premium for Part B was not deducted.

Medical Assistance Deductible Calculation

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 (October 1015), p. 2; BEM 544 (July 1, 2016), p. 1; BEM 545 (January 1, 2017), pp. 1-2; RFT 240 (December 1, 2013), p. 1.

Income eligibility for full coverage MA exists for the calendar monthly tested when:

- There is no excess income.
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When **one** of the following equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**:

- Old bills (defined in EXHIBIT IB).
- Personal care services in clients home, (defined in Exhibit **ID#**), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).
- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC).

When **one** of the above does **not** equal or exceed the group's excess income for the month tested, income eligibility begins either:

- **The exact day of the month** the allowable expenses **exceed** the excess income.
- **The day after the day of the month** the allowable expenses **equal** the excess income. BEM 545, p.1.

The fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 11

A deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545, p. 10. The fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 11. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 11.

The monthly PIL for an MA group of one (Petitioner) living in ██████ County is \$█████ BEM 211 (November 2012), p. 5; RFT 200 (December 1, 2013), p. 2; RFT 240, p. 1. Therefore, Petitioner's MA coverage is subject to a deductible if Petitioner's monthly net income, based on gross income, is greater than \$█████

At the hearing, the Petitioner's MA deductible budget was also reviewed to determine if the deductible in the amount of \$█████ was not correct. The Department used the correct income and credited the Petitioner with a \$█████ unearned income general exclusion and did not include the Petitioner's Medicaid Part B premium in the amount of \$█████. The countable income of \$█████ should have been reduced by the amount of the Part B premium resulting in Countable income of \$█████ (\$█████ - \$█████ = \$█████ - \$█████ = \$█████). In the budget presented, the Petitioner did not present

any medical bills, which will also cause a reduction in the deductible spenddown amount but only when bills are presented to the Department. The last step to determine the deductible is to subtract the protected income level (PIL) for ██████ County, which is \$█████ from the countable income of \$█████. This leaves a deductible of \$█████ (\$█████ - \$█████ = \$█████ Exhibit 2B.

The Petitioner's at the hearing also raised an issue regarding whether any of the medical care received by Petitioner in her current living arrangement could be counted towards the deductible as a medical expense. No bills were submitted or other documentation to establish that medical expenses had been presented to the Department and reviewed. In addition, the Petitioner's hearing request did not mention this issue. Based upon a review of the hearing request, it is determined that the issue was not presented by the current hearing request considered as part of this hearing and is not ripe for appeal as the Department has taken no action to deny any medical expense or failed to process any bills submitted by Petitioner.

DECISION AND ORDER

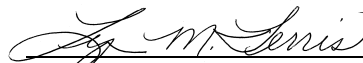
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it calculated the Petitioner's spenddown as it did not include the Petitioner's Medicare Part B insurance premium expense when calculating the spenddown.

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 and include the Medicare Part B insurance premium in the amount of \$█████
2. The Department shall provide the Petitioner's Guardians written notice of its determination.

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]

Authorized Hearing Rep.

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

[REDACTED]