



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 24, 2017
MAHS Docket No.: 16-018508
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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. After due notice, a telephone hearing was held on January 10, 2017, from Mt. Pleasant, Michigan. Participants on behalf of Petitioner included Petitioner and her mother, [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] [REDACTED].

ISSUE

Did the Department properly determine Petitioner's monthly Medical Assistance (MA) eligibility?

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 was an on-going recipient of Ad-Care Medicaid.
2. Petitioner's MA eligibility was based upon her unearned income of \$ [REDACTED] per month.
3. Petitioner had two minor children who were receiving unearned "non-SSI-related income" of \$ [REDACTED] per month for each child.
4. One of Petitioner's minor children became an adult, and the other child then began receiving \$ [REDACTED] per month for "non-SSI-related income".

5. On September 19, 2016, the Department changed Petitioner's MA from Ad-Care Medicaid to the G2S program with a monthly deductible of \$ [REDACTED] (Exhibit 2)
6. The Department received Petitioner's hearing request on November 28, 2016, protesting the change in her MA and the deductible.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

When the Department calculates eligibility for MA it takes into account, among many other factors, the earned and unearned income the Petitioner's group receives. Exhibit 2 is the Health Care Coverage Determination Notice dated September 19, 2016. Page 2 is a copy of a quick note dated August 26, 2014, explaining how the change from SSI income to RSDI income affected his eligibility. Exhibit 1 Pages 3-4 provides excerpts from BEM 541 (1/1/16) explaining how non-SSI-related income is allocated. Exhibit 1 Pages 5-7 show the budgets used in calculating Petitioner's MA eligibility.

Petitioner's MA was previously based upon the \$ [REDACTED] that her youngest child was receiving as unearned income. As explained in BEM 541, p. 2, the non-SSI-related child's income (\$ [REDACTED] here) is subtracted from \$ [REDACTED] and that amount (\$ [REDACTED] here) was subtracted from Petitioner's unearned income. She was also given a \$ [REDACTED] disregard (BEM 541, p. 3), and those subtractions left her with \$ [REDACTED] as her net unearned income. Because her net unearned income, and thus her countable income, were less than \$ [REDACTED] she was eligible for Ad-Care. Then, when her oldest daughter turned 18, the youngest daughter received more unearned income. Her income became \$ [REDACTED] per month, and that exceeded the \$ [REDACTED] limit in BEM 541 for her to receive a deduction for any allocation of the non-SSI-related child's income. The result is that her net and countable income became \$ [REDACTED] which the Department said exceeded the \$ [REDACTED] income limit for Ad-Care eligibility. To be eligible for Ad-Care, "Net income cannot exceed 100% of the poverty level." BEM 163 (7/1/13) p. 1. "Income eligibility exists when net income does not exceed the income limit in RFT 242. Income eligibility cannot be established with a patient-pay amount or by meeting a deductible." BEM 163, p. 2.

RFT 242 (10/1/16) provides the income limits for Ad-Care, effective April 1, 2016. For a fiscal group of 1, the income limit is \$ [REDACTED]. The Department calculated her countable income to be \$ [REDACTED] (Exhibit 1 Page 6.) It also said the income limit is \$ [REDACTED] but that conflicts with RFT 242. A search of the Department's available online policy manuals found only one place in which the figure of \$ [REDACTED] is used, and that is in RFT 250 (10/1/16) where it sets the monthly net income (\$100%) limit of \$ [REDACTED] for a FAP group of one.

It is not within the scope of the Administrative Law Judge's authority to create new guidelines, eligibility criteria, or deductibles that the Department is to use. The issues that can be decided are whether the Department followed policy with respect to each program, based upon the existing rules, laws, policies, etc.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.

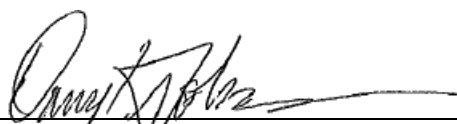
DECISION AND ORDER

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:

The Department shall redetermine Petitioner's eligibility for MA benefits effective November 1, 2016.

DJ/mc



Darryl Johnson
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]