



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: May 3, 2017
MAHS Docket No.: 17-002047
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 March 13, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly that Petitioner and her husband were eligible for Medical Assistance (MA) benefits subject to a [REDACTED] monthly deductible?

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 applied for MA benefits.
2. The Department processed Petitioner's application for MA benefits.
3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that both she and her husband had been approved for MA benefits subject to a monthly deductible in the amount of [REDACTED] effective [REDACTED].

4. On [REDACTED] Petitioner filed a Request for Hearing disputing the Department's actions.

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, 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 [REDACTED].

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 her income in determining eligibility as well as her spouse's income. See BEM 211 [REDACTED]), p. 8.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 [REDACTED]), 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. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500 [REDACTED]), p. 4. This may be more than the actual amount an individual receives. BEM 500, p. 4.

First, a budgetable income will be done to determine the adult's (Petitioner's) prorated income. The Department testified that Petitioner's monthly earned income is [REDACTED] monthly. Under policy, the Department is required to deduct [REDACTED] from the countable earnings of each fiscal group member with earnings. BEM 536, p. 1. Thus, Petitioner's income totaled [REDACTED].

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 seven (spouse plus six minor children). The Department then adds 2.9 to Petitioner's number of dependents (seven), which results in a prorate divisor of 9.9. BEM 536, p. 4. The Department will then divide Petitioner's total net income by the prorate divisor, which results in the adult's prorated share amount of [REDACTED] ([REDACTED] net income divided by 9.9 prorate divisor). BEM 536, p. 4. It is therefore found that the Department properly determined that Petitioner's adult prorated income was [REDACTED].

Next, the Department presented a budget relating to Petitioner's husband's prorated income. The Department testified Petitioner's husband earns [REDACTED] biweekly for a total monthly income of [REDACTED]. When [REDACTED] is deducted from the income as required, Petitioner's husband income totaled [REDACTED]. Petitioner's husband's number of dependents is also seven (spouse plus six minor children). When the 2.9 is added to Petitioner's number of dependents (seven), it results in a prorate divisor of 9.9. When Petitioner's wife's total net income is divided by the prorate divisor, Petitioner's prorated share amount is [REDACTED].

The budget present by the Department relating to Petitioner's wife listed her adult prorated income as [REDACTED]. Notwithstanding that the Department testified that Petitioner's biweekly income was [REDACTED], the Department also testified that Petitioner submitted paystubs. The paystubs submitted by Petitioner is as follows: [REDACTED], in the amount of [REDACTED]; [REDACTED] in the amount of [REDACTED] and [REDACTED] in the amount of [REDACTED]. It is unclear if the Department simply used the [REDACTED], paystub in the amount of [REDACTED] to determine that Petitioner's husband's income was [REDACTED] biweekly. The Department was required to use actual income if it had actual income available. Additionally, using any combination of the paystubs submitted by Petitioner relating to her husband or using the [REDACTED] figure provided by the Department, the undersigned is unable to determine how the Department arrived at a prorated income amount of [REDACTED] for Petitioner's husband.

To determine the proper deductible for both Petitioner and her husband, Petitioner's husband prorated income amount must be correct. Given that the Department failed to articulate how it arrived at the amount of [REDACTED] as a prorated amount for Petitioner's husband, it is found it failed to properly determine Petitioner's wife's deductible amount.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the MA deductible for Petitioner and her husband.

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. Redetermine Petitioner and her husband's eligibility for MA benefits effective [REDACTED];
2. Issue supplements Petitioner's group was eligible to receive but did not; and
3. Notify Petitioner in writing of its decision.

JM/hw



Jacquelyn A. McClinton
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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]