



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]

[REDACTED] Mailed: May 16, 2017  
MAHS Docket No.: 17-003881  
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 three-way telephone hearing was held on April 27, 2017, from Detroit, Michigan. Petitioner represented herself for the proceeding. The Department of Health and Human Services (Department) was represented by [REDACTED]; and [REDACTED], [REDACTED].

### **ISSUE**

Did the Department properly calculate Petitioner's son Medical Assistance (MA) – Group 2 Persons Under Age 21 (G2U) deductible effective February 1, 2017?

### **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's son is an ongoing recipient of MA benefits.
2. The son is not disabled, he is [REDACTED], and the son's fiscal group size is three. [Exhibit A, pp. 8-10.]
3. On February 1, 2017, a Wage Match Client Notice (wage match) was sent to Petitioner regarding her spouse's (father to the son) income from [REDACTED] and due back by March 3, 2017. [Exhibit A, pp. 4-5.]

4. On February 6, 2017, an application for MA benefits was submitted requesting coverage for the son. [Exhibit A, pp. 6-18.]
5. On February 16, 2017, the Department sent Petitioner a Verification Checklist (VCL), which requested verification of the son's third party resources. The VCL was due back by February 27, 2017. [Exhibit A, pp. 19-20.]
6. On February 27, 2017, the Department received a fax of the son's [REDACTED] [REDACTED] card and the spouse's check stubs for [REDACTED]. [Exhibit A, pp. 21-25.]
7. On March 3, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice notifying the son was approved for MA coverage effective February 1, 2017, ongoing (with a [REDACTED] monthly deductible). [Exhibit A, pp. 27-32.]
8. On March 13, 2017, Petitioner filed a hearing request, protesting her son's deductible. [Exhibit A, p. 3.]

### **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 the present case, Petitioner is disputing the calculation of her son's MA – G2U deductible in the amount of [REDACTED] effective February 1, 2017, ongoing. The undersigned Administrative Law Judge (ALJ) addresses Petitioner's concern below:

G2U is a Group 2 Medicaid (MA) category. BEM 132 (January 2015), p. 1. Medicaid is available to a person who is under age 21 and meets the eligibility factors in BEM 132. BEM 132, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 132, p. 1. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 132, p. 2. The Department applies the Medicaid policies in BEM 500, 530 and 536 to determine net income. BEM 132, p. 2. If the net income

exceeds Group 2 needs, Medicaid eligibility is still possible. See BEM 545. BEM 132, p. 2.

In the present case, the son's household size is three, himself, Petitioner, and the spouse. [Exhibit A, pp. 8-10.]

The Department uses the fiscal group policies for Group 2 Medicaid in BEM 211. BEM 132, p. 2. The Department determines the fiscal group for each person requesting MA. BEM 211 (January 2016), p. 5. For G2U, a child's fiscal group is the child and the child's parents; thus, the son's fiscal group is three in this instance. BEM 211, p. 8.

In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the individual: the individual's parent(s) if the individual is a child. BEM 211, p. 8. This means a parent's income is considered in determining Petitioner son's eligibility. BEM 211, p. 8.

Next, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (April 2016), p. 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536, p. 1. There are multiple steps to determine a fiscal group member's income.

Step 1 states to determine each fiscal group member's countable earned income and to use the policies in BEM 500 and 530. BEM 536, p. 1. The son and Petitioner did not have any form of earned or unearned income. However, the spouse did have earned income. On February 27, 2017, the Department received a fax of the spouse's check stubs for [REDACTED] Exhibit A, pp. 21-25.] The following were the spouse's check stubs information: (i) pay date of [REDACTED], with gross pay of \$ [REDACTED] (ii) pay date of [REDACTED], with gross pay of [REDACTED] and overtime included; (iii) pay date of [REDACTED], with gross pay of [REDACTED]; (iv) pay date of [REDACTED], with gross pay of [REDACTED] (missing gross check calculation); and (v) pay date of [REDACTED] gross pay of [REDACTED] and overtime included [Exhibit A, pp. 22-26.] However, at this point, the undersigned was unable to determine from the Department what the spouse's countable earned income was. The budget showed that the father's and child's share of father's income was [REDACTED] in which the [REDACTED] calculation is based obtaining the father's budgetable income and other deductions. [Exhibit A, p. 33 and BEM 536, pp. 1-7.] Petitioner disputed the calculation of the spouse's earned income.

BEM 530 is used to determine the spouse's MA income budgeting. BEM 530 (January 2014), pp. 1-5. For applicants and deductible cases, the Department determines income eligibility in calendar month order beginning with the oldest month. BEM 530, p.

1. This is especially important when using medical expenses to determine Group 2 income eligibility. BEM 530, p. 1. The Department uses only countable income. BEM 530, p. 2. For the processing month, non-average income, the Department uses amounts already received/available in the processing month. BEM 530, p. 3. In addition, estimate amounts likely to be received/available during the remainder of the month. BEM 530, p. 3. For the processing month, average income, use the monthly average amount if this month is one of the months used to compute the average. BEM 530, p. 3.

Based on the foregoing information and evidence, the Department failed to establish that it properly calculated the spouse's income. The undersigned used BEM 530 policy and was unable to determine how the Department calculated the spouse's income. Because the Department failed to establish how it calculated the spouse's income, the Department failed to satisfy its burden of showing that it properly calculated the son's MA-G2U deductible effective February 1, 2017. The Department is ordered to recalculate the son's MA-G2U deductible effective February 1, 2017, ongoing, in accordance with Department policy. The undersigned will not proceed in this analysis to the additional steps outlined in BEM 536 because the Department failed to establish that it properly followed step 1 of the BEM 536 process. See BEM 530, pp. 1-5.

### **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 son's MA-G2U deductible to be [REDACTED] effective February 1, 2017, ongoing.


Accordingly, the Department's MA 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. Recalculate the MA budget for February 1, 2017, ongoing;
2. Issue supplements to Petitioner's son for any MA benefits he was eligible to receive but did not from February 1, 2017, ongoing; and

3. Notify Petitioner of its decision.

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**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]

[REDACTED]  
[REDACTED]  
[REDACTED]

cc: [REDACTED]  
[REDACTED]