



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: June 12, 2017
MAHS Docket No.: 17-004261
Agency No.: ██████████
Petitioner: ██████████

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 ██████████, from Detroit, Michigan. The Petitioner was represented by ██████████ the Petitioner's AHR; the Petitioner did not appear. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly determine the Petitioner's Medical Assistance (MA) 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 Department imposed an MA spenddown of \$██████ regarding Petitioner's MA.
2. The Petitioner and the Department agree that the Petitioner's monthly unearned income from Retirement, Survivors and Disability Insurance (RSDI) is \$██████
3. The Department used \$██████ unearned income when computing the Petitioner's MA eligibility. Exhibit C.

4. The Department sent a Health Care Coverage Determination Notice on [REDACTED] imposing a \$ [REDACTED] monthly deductible effective [REDACTED]. Exhibit A.
5. The Department also included child support income of \$ [REDACTED].
6. The Petitioner requested a timely hearing on [REDACTED].

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 Department imposed an MA deductible spenddown of \$ [REDACTED] due to a change in total income received by the Petitioner. Previously, the Petitioner's child support had not been included. The Petitioner receives unearned income of \$ [REDACTED] and received full coverage MA previously. The Department determined that Petitioner also received child support and began including the child support as part of the income. During the hearing, the spenddown budget was reviewed; and the Department did not demonstrate what months of child support it used to arrive at the unearned income of \$ [REDACTED] for child support income when determining the spend down.

The Petitioner's spend down budget was reviewed at the hearing.

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 Ad Care requires:

Income eligibility exists when net income does not exceed the income limit in RFT 242. Net income cannot exceed 100% of the poverty level. Income eligibility cannot be established with a patient-pay amount or by meeting a deductible. BEM 163 (January 2017), p. 1.

RFT 242 (April 1, 2017), p. 1, provides that the income limit for a group of one person is \$[REDACTED]. The Petitioner's unearned income as calculated by the Department is \$[REDACTED] and thus, the group income exceeds the net income limit to be eligible for full coverage Ad Care. Thus, the Department, based upon its calculation of income, terminated full coverage MA based upon excess income and imposed a deductible.

Income eligibility for full coverage MA exist 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 II), 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 Wayne County is \$[REDACTED] 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 \$[REDACTED]

The Department according to policy is required to include non arrears child support when determining MA countable income for Supplemental Security Income (SSI)-related MA. BEM 503, (January 1, 2017), p. 9. It was unclear whether the child support included was arrears or non arrears child support, and how the Department determined the child support income was not demonstrated by the Department.

At the hearing, the Petitioner's MA deductible budget was reviewed to determine if the deductible in the amount of \$ [REDACTED] was correct. Because it could not be determined how the Petitioner's child support of \$ [REDACTED] was determined, the Department did not meet its burden of demonstrating that it acted in accordance with Department policy when calculating the Petitioner's MA deductible.

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 Petitioner MA deductible (spend down) unearned income and income from child support.

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 must reinstate the Petitioner to full coverage MA and recalculate the Petitioner's MA deductible (spenddown) effective [REDACTED].
2. The Department must recalculate the Petitioner spenddown deductible and provide the Petitioner 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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]