



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: July 28, 2017
MAHS Docket No.: [REDACTED] 17-006454
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; 42 CFR 438.400 to 438.424; 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 Petitioner. [REDACTED] served as the interpreter for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's SSI related Medical Assistance (MA) benefits effective [REDACTED]?

Did the Department properly determine that Petitioner was eligible for MA coverage subject to a monthly deductible in the amount of [REDACTED] effective [REDACTED]?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Prior to [REDACTED] Petitioner was receiving SSI related MA benefits.
2. Petitioner previously received social security income from the Social Security Administration.
3. Petitioner's SSI benefits ended.

4. The Department ended Petitioner's SSI related MA benefits effective [REDACTED].
5. On [REDACTED] application, Petitioner reapplied for MA benefits.
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that he had been approved for MA benefits subject to a deductible in the amount of [REDACTED] per month effective [REDACTED].
7. 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.

SSI related MA closure

Additionally, under Department policy, an ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. When possible, an ex parte review should begin at least 90 days before the anticipated change is expected to result in case closure. The review includes consideration of all MA categories. BEM 105 (October 2016), p. 5.

Further, when SSI benefits stop, central office evaluates the reason based on SSA's negative action code, then does one of the following:

- **SSI Closure.** MA-SSI is closed in Bridges **if** SSI stopped for a reason that prevents continued MA eligibility (for example, death, moved out of state). Bridges sends the recipient a DHS-1605.
- **Transfer to SSIT.** SSI cases **not** closed due to the policy above are transferred to the SSI Termination (SSIT) Type of Assistance. A redetermination date is set

for the second month after transfer to allow for an ex parte review. BEM 150 (October 2015), p. 6.

In this case, the Department testified that Petitioner's SSI related MA closed because he was no longer receiving SSI. Petitioner did not dispute that he is no longer receiving SSI. However, the Department acknowledged that it did not send Petitioner a Health Care Coverage Determination Notice when his SSI MA closed effective [REDACTED]. As such, the undersigned cannot determine whether Petitioner's SSI MA closed as the result of SSI Closure or Transfer to SSIT. It would appear that Petitioner's SSI related MA closed as a result of Transfer to SSIT given that he has not moved out of state and has not passed away.

The Department testified that the closure was effective [REDACTED] and that Petitioner was instructed to reapply. Petitioner did reapply for benefits and on [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that he was eligible for MA benefits subject to a deductible of [REDACTED]. There was no evidence provided that the Department conducted an ex parte review prior to the closure of Petitioner's SSI related MA benefits. As such, it is found that the Department improperly closed Petitioner's SSI related MA effective [REDACTED].

MA Deductible

As previously stated Petitioner reapplied for MA benefits. His new application was approved subject to a [REDACTED] monthly deductible. Petitioner disputed the deductible amount.

In this case, Petitioner confirmed that he received monthly RSDI income of [REDACTED]. Applying a [REDACTED] unearned income disregard results in Petitioner having net unearned income of [REDACTED]. See BEM 541 (January 2017), p. 3. Clients are eligible for Group 2 MA coverage when their net income, less any allowable needs deductions, exceeds the applicable Group 2 MA protected income levels (PIL), which is based on the client's shelter area and fiscal group size. In such cases, the client is eligible for Group 2 MA coverage under the deductible program with the deductible equal to the amount that the client's monthly income exceeds the PIL.

The monthly PIL for an MA fiscal group size of two living in [REDACTED] County is [REDACTED] per month. RFT 200 (December 2013), p. 2; RFT 240 (December 2013), p. 1. Thus, if Petitioner's net income is in excess of [REDACTED], he may become eligible for MA assistance under the deductible program. As discussed above, Petitioner's countable income totaled [REDACTED]. The evidence at the hearing established that Petitioner was not eligible for any further deductions. Because Petitioner's net income of [REDACTED] exceeded the applicable [REDACTED] PIL by [REDACTED], the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA coverage subject to a monthly [REDACTED] deductible.

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 closed Petitioner's SSI related MA without conducting the proper ex parte review and without providing proper notice of the closure effective [REDACTED]. However, it is found that the Department did act in accordance with Department policy when it determined that Petitioner was eligible for MA benefits effective [REDACTED] subject to a monthly deductible in the amount of [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED IN PART** with respect to closure of Petitioner's SSI related MA effective [REDACTED] and **AFFIRMED IN PART** with respect to Petitioner's new application MA benefits allowing MA coverage subject to a [REDACTED] monthly deductible effective [REDACTED].

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. Reinstate Petitioner's SSI related MA which closed effective [REDACTED]
2. Determine Petitioner's eligibility for SSI related MA or the most beneficial MA coverage effective [REDACTED]; and
3. Notify Petitioner in writing of its decision.

JM/tlf



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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]