



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: July 25, 2017
MAHS Docket No.: 17-005888
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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; 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 June 22, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine that Petitioner was eligible for Medicaid (MA) subject to a monthly deductible of [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. The Petitioner completed a redetermination on [REDACTED], for Medical Assistance.
2. After review of the redetermination, the Department placed the Petitioner's MA group, consisting of Petitioner and her husband, on a spend down due to having excess income for full coverage MA.
3. The Petitioner provided the following pay stub amounts for her husband, as part of the redetermination: [REDACTED], \$ [REDACTED]; [REDACTED], \$ [REDACTED]; [REDACTED], \$ [REDACTED]; and [REDACTED], \$ [REDACTED]. The pay stubs also include weekly tips totals which were included by the Department as well in the earned income total. The income total used for March 2017 was \$ [REDACTED] is correct. Exhibit A, p. 8, Exhibit B and Exhibit G.

4. The Petitioner also submitted paystubs for herself for her employment, and is paid bi weekly: [REDACTED], \$ [REDACTED] and [REDACTED], \$ [REDACTED]. The income total used by the Department for March 2017 was \$ [REDACTED] and is correct. Exhibit A, p. 8, Exhibit B and Exhibit F and G.
5. The Department issued a Health Care Coverage Determination Notice on [REDACTED], [REDACTED] which approved the Petitioner and her husband for Medical Assistance with a \$ [REDACTED] monthly deductible effective [REDACTED]. Exhibit C.
6. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's action imposing a deductible.

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 completed a medical assistance redetermination for May 2017 for Petitioner. After reviewing the income reported by Petitioner and her spouse, the Department determined that the Petitioner was no longer eligible for full coverage medical assistance, but instead was subject to a medical deductible of \$ [REDACTED]. Exhibit E. The Department calculated the MA benefits based on the Petitioner's monthly income from employment in the amount of \$ [REDACTED] and income for Petitioner's husband in the amount of \$ [REDACTED]. Exhibit F and G and Exhibit D. The Department used the gross income amounts for both Petitioner and her spouse as shown on pay stubs provided with the redetermination. Exhibit A and D. The income as calculated by the Department for March 2017 is correct. The Department also presented a Group 2 – FIP Related MA Net Income budget at the hearing to demonstrate how it determined the amount of the deductible it imposed. Exhibit E.

The Petitioner requested a hearing to dispute the Department's findings that she and her spouse were eligible for MA coverage subject to a \$ [REDACTED] monthly deductible.

G2C is a FIP-related Group 2 MA category. BEM 135 (July 2013), 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 FIP-related groups in BEM 211. BEM 135, p. 2. BEM 211 states a child's income cannot be used to determine a parent's eligibility. BEM 211 (July 2013), p. 5. In summary, the Department will only use both the Petitioner's and her spouse's income in the G2C calculation. See BEM 211, p. 5. In this case the Petitioner's \$ [REDACTED] income for March 2017 was and Petitioner's spouse's income was \$ [REDACTED].

In connection with her redetermination, the Petitioner submitted pay stubs showing gross income. Based upon verified income, Petitioner's husband's monthly income was \$1 [REDACTED]. The Petitioner's verified monthly income based upon the pay stubs submitted was \$ [REDACTED]. The Petitioner also is a parent of a dependent child in her home and was eligible for MA coverage under the G2C program. See BEM 105 (January 2016), p. 2; BAM 220 (January 2016), pp. 17-19; BAM 210 (January 2016), p. 1; BEM 135 (October 2015), p. 1.

G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (October 2014), p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

For purposes of Group 2 MA eligibility, Petitioner, who is married, has an MA fiscal group size of two. BEM 211 (January 2015), p. 8. Because she lives in [REDACTED] County, her PIL is \$500. RFT 200 (December 2013); RFT 240, p. 1. Thus, if her household's net income, calculated in accordance with BEM 536 (January 2014), pp. 1-7, exceeds \$500, Petitioner is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly income exceeds \$500.

The Department presented a copy of the G2-FIP related MA net income budget showing the calculation of Petitioner's monthly deductible (Exhibit E). The budget shows that Petitioner's husband's prorated income is \$ [REDACTED]. An adult's prorated income is determined by dividing monthly budgetable income, calculated in accordance with BEM 536 (January 2014), pp. 1-4, by the adult's applicable prorate divisor, which is the sum of 2.9 and the number of dependents living with the adult. BEM 536, p. 4.

For purposes of determining an adult's eligibility for Group 2 MA, only the income for the adult and her spouse, if any, is considered. BEM 211, p. 5. Petitioner confirmed that her household's income was her income from employment and her husband's employment income. As discussed above, Petitioner's husband earns \$ [REDACTED] monthly. Under BEM 536, this income is reduced by \$ [REDACTED] to arrive at a net individual income of \$ [REDACTED]. BEM 536, p. 4. For purposes of determining the prorated divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4. In this case, Petitioner is married and she and her husband live with one minor child. Therefore, Petitioner's husband has two dependents (wife and minor child), and his prorate divisor is 2.9 plus two or 4.9. Petitioner's husband's prorated income is \$ [REDACTED] - 1/3 (\$ [REDACTED]) = \$ [REDACTED] + \$30 divided by 4.9, or \$ [REDACTED] one dollar more than as shown on the budget so the prorated income is essentially correct. See RFT 295 (December 2013), p. 54.

However, using the same formula, which is required when calculating the Petitioner's prorated income, the Department's calculation of Petitioner's prorated income is incorrect. The Petitioner's monthly income is \$ [REDACTED]. Under BEM 536 this income is reduced by \$90 to arrive at net individual income of \$ [REDACTED]. BEM 536, p. 4. For purposes of determining the prorate divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4. In this case, Petitioner's prorated divisor is based upon two dependents, is 2.9 plus two or 4.9. Petitioner's prorated income is \$ [REDACTED] - 1/3 (\$ [REDACTED]) = \$ [REDACTED] + \$30 = \$ [REDACTED] divided by 4.9, equals \$ [REDACTED] which is less than the \$ [REDACTED] shown on the budget. Based upon this analysis, the Department has not demonstrated that the Petitioner's prorated income is correct and thus it cannot be determined based upon the evidence if the deductible amount is correct. RFT 295 (December 2013), p.38.

Because the Department's evidence did not demonstrate that the Petitioner's prorated income was calculated correctly, the Department has not met its burden of proof to demonstrate that it properly determined the Petitioner's MA 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the Petitioner's MA deductible.

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:

1. The Department shall recalculate the Petitioner's MA deductible.
2. The Department shall provide the Petitioner written notice of its determination.

LF/hw



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

DHHS

[REDACTED]

Petitioner

[REDACTED]