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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 28, 2017
MAHS Docket No.: 17-007680
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; 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. Petitioner was present for the hearing and represented herself. Also, Petitioner's spouse, [REDACTED], was present for the hearing and provided testimony. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Hearings Facilitator. [REDACTED] serviced as translator during the hearing.

ISSUE

Did the Department properly calculate Petitioner's spouse, [REDACTED], Medical Assistance (MA) - Group 2 Caretaker Relatives (G2C) coverage with a monthly \$ [REDACTED] deductible for [REDACTED], ongoing?

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 spouse is an ongoing recipient of MA benefits.
2. The spouse's household size is five (Petitioner, spouse, and three minor children).
3. Under Case No. [REDACTED], Petitioner applied for benefits; and during the application process, the spouse's pay stubs were submitted on [REDACTED]. [Exhibit A, pp. 6-9.]

4. As a result of the submitted pay stubs, it affected the spouse's ongoing MA eligibility because it caused a calculation of a \$ [REDACTED] deductible effective [REDACTED] under Case No. [REDACTED]
5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that her spouse was eligible for MA benefits effective [REDACTED], ongoing (with a \$ [REDACTED] monthly deductible). [Exhibit B, pp. 4-6.]
6. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-3.]

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.

Preliminary matter

On [REDACTED], Petitioner filed a hearing request, protesting her and her spouse's MA deductible. [Exhibit A, pp. 2-3.] However, during the hearing, it was determined that Petitioner's MA benefits had actually closed and that only her spouse had MA benefits, subject to a deductible program. On [REDACTED], the Department sent Petitioner a determination notice notifying her that her MA benefits closed effective [REDACTED]. [Exhibit B, pp. 1-3.] Due to the discovery that Petitioner's MA benefits had closed, she also wanted to dispute this closure. However, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address Petitioner's MA closure because her hearing request is only disputing the deductible. Petitioner, though, can file another hearing request to protest the closure of her MA benefits, if it is filed within 90 days of the determination notice dated [REDACTED]. See BAM 600 (April 2017), p. 6, (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days). Nonetheless, the undersigned has the jurisdiction to address the calculation of her spouse's MA deductible below:

G2C deductible

In the present case, Petitioner was found to be eligible for MA – G2C coverage (hereinafter referred to as “G2C”) effective [REDACTED], but subject to a \$ [REDACTED] deductible. As such, the Department presented the G2C budget for review.

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 FIP-related groups in BEM 211. BEM 135, p. 2. In the present case, the Department is determining the spouse’s eligibility; therefore, the Department can only use his income in determining eligibility as well as his spouse’s (Petitioner) income, if she even has any income. See BEM 211 (January 2016), p. 8.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member’s income. BEM 536 (April 2017), 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 the spouse. See BEM 536, p. 1.

First, a budgetable income will be done to determine the adult’s (Petitioner’s spouse) prorated income. In this case, the Department calculated the spouse’s countable earned income to be \$ [REDACTED] [Exhibit A, p. 4.] This was based on adding the gross pay of the four pay stubs the spouse submitted for the month of [REDACTED]. [Exhibit A, pp. 6-9.]

In response, the spouse disputed the calculation of his earned income. He testified that his income was exceptionally high that month because it included overtime. He testified that he normally makes \$ [REDACTED] an hour and works [REDACTED] hours a week. He testified for [REDACTED] he made \$ [REDACTED]. He did not provide any additional pay stubs for the evidence record showing the amounts he made after the submission of his [REDACTED] pay stubs.

The Department determines income eligibility in calendar month order beginning with the oldest month. BEM 530 (January 2014), p. 1. This is especially important when using medical expenses to determine Group 2 income eligibility. BEM 530, p. 1. In addition, do a future month budget to determine ongoing income eligibility, deductible status or post-eligibility patient-pay amounts (PPA) when a change in circumstances occurred in the processing month or a change is anticipated for the future month. BEM 530, p. 1.

For a recipient, do a future month budget at redetermination and when a change occurs that may affect eligibility or a post-eligibility PPA. BEM 530, p. 1. For a deductible client, do a future month budget at redetermination and when a change occurs that may affect deductible status. BEM 530, p. 1.

For future month - non-averaged income, the Department uses amounts that will be, or are likely to be, received/available in the future month. BEM 530, p. 3. Exceptions:

- Do not budget an extra check (example, fifth check for person paid weekly).

If prospecting income based on bi-weekly or twice a month payments, multiply by 2. If prospecting income based on weekly pay, multiply by 4. Base estimate of daily income (example: insurance pays \$40 for every day in hospital) on a 30-day month.
- When the amount of income from a source changes from month to month, estimate the amount that will be received/available in the future month.

BEM 530, p. 3. For future month - averaged income, the Department uses average amount if this month is one of the months used to compute the average. BEM 503, p. 3.

For prospecting income, this means arriving at a best estimate of the person's income. BEM 530, p. 3. Prospect income when you are estimating income to be received in a processing or future month. BEM 530, p. 3. Your best estimate may not be the exact amount of income received. BEM 530, p. 3.

Based on the foregoing information and evidence, the undersigned finds that the Department properly calculated the spouse's earned income of \$ [REDACTED] [Exhibit A, p. 4.] In this case, the Department conducted a future-month budget calculation because a change occurred when the spouse submitted his pay stubs showing his income increasing, which affected his deductible status. See BEM 530, p. 1. The Department used his weekly pay stubs he received in April 2017 to calculate the earned income of \$ [REDACTED]. The spouse disputed this calculation claiming that the pay stubs were excessive at that time, but the spouse failed to present any of his recent pay stubs (i.e., June 2017) to support his argument. Instead, the undersigned finds that the Department properly relied on his submitted pay stubs, in which each of them included overtime pay. Using the above policy, the undersigned finds the Department properly calculated Petitioner's earned income to be \$ [REDACTED] when conducting a future-month budget calculation based on the four [REDACTED] pay stubs he submitted. [Exhibit A, pp. 6-9 and BEM 530, pp. 1-5.]

Next, policy states that the Department must deduct \$90 from the spouse's countable earnings, which results in a net income of \$ [REDACTED] BEM 536, p. 2.

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. The spouse's number of dependents is four (Petitioner plus three minor children). The Department then adds 2.9 to the spouse's number of dependents (four), which results in a prorated divisor of 6.9. BEM 536, p. 4. The Department will then divide the spouse's total net income by the prorated divisor, which results in the adult's prorated share amount of \$ [REDACTED] (\$ [REDACTED] net income divided by 6.9 prorated divisor). [BEM 536, p. 4 and Exhibit A, p. 12.]

Then, an adult's fiscal group's net income is the total of the following amounts:

- The adult's net income ("Fiscal Group Member's Total Net Income") if the adult has no dependents or 2.9 prorated shares of the adult's own income if the adult has dependents (adult's "Step 13" times 2.9), plus
- If the spouse is in the adult's fiscal group:
 - 3.9 prorated shares of the spouse's own income (spouse's "Step 13" times 3.9), plus
 - one prorated share of the adult's (person requesting MA) income (adult's amount from "Step 13").

Note: This is the couple's share of each other's income.

BEM 536, pp. 6-7.

Applying the above policy, the Department calculated an adult's share of adult's own income of \$ [REDACTED] (\$ [REDACTED] times 2.9). [See BEM 536, p. 6 and Exhibit A, p. 12.] Plus, the spouse's share of spouse's own income, which is zero (Petitioner has no income). See BEM 536, p. 6. Plus, the couple's share of each others income, which is [REDACTED] (one prorated share of the adult's (persons requested MA) income). [See BEM 536, pp. 6-7 and Exhibit A, p. 12.] When all of these amounts are added together, this results in a total of \$ [REDACTED] [Exhibit A, p. 12.]

Finally, clients are eligible for full MA coverage when net income does not exceed applicable Group 2 MA protected income levels (PIL) based on the client's shelter area and fiscal group size. BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; and RFT 200 (April 2017), pp. 1-3. In this case, the monthly PIL for an MA group of two (Petitioner and spouse) living in [REDACTED] County is \$ [REDACTED] per month. RFT 200, pp. 1-3; and RFT 240, p. 1.

An individual whose income is in excess of the applicable monthly PIL may become eligible for MA assistance under the deductible program, with the deductible equal to the amount that the individual's monthly net income exceeds the applicable PIL. BEM 135, p. 2 and BEM 545 (January 2017), pp. 2-3. Because the spouse's monthly total net income of \$ [REDACTED] exceeds the \$ [REDACTED] PIL by \$ [REDACTED] the Department acted in accordance with Department policy when it concluded that the spouse was eligible for MA coverage under the G2C program with a monthly deductible of \$ [REDACTED] effective [REDACTED].

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 acted in accordance with Department policy when it properly calculated the spouse's MA – G2C deductible amount of \$ [REDACTED] effective [REDACTED].

Accordingly, the Department's MA decision is **AFFIRMED**.

EJF/jaf



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]

Petitioner

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]