



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 14, 2017
MAHS Docket No.: 17-008488
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 [REDACTED], Michigan. Petitioner, and her son, [REDACTED], personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Assistance Payment Supervisor, [REDACTED]; and Eligibility Specialist, [REDACTED]. [REDACTED] and [REDACTED] testified on behalf of the Department. The Department submitted 21 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly determine Petitioner's Medicaid 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. Petitioner had been receiving Retirement, Survivors and Disability Insurance since [REDACTED] in the amount of \$ [REDACTED] a month. She was also receiving the Healthy Michigan Plan. [Dept. Exh. 1].
2. On [REDACTED], Petitioner became eligible for Medicare. [Dept. Exh. 1].

3. Petitioner did not dispute that she began receiving Medicare on March 1, 2017, or that she was receiving \$ [REDACTED] a month in RSDI income. [Testimony of [REDACTED], 8/15/2017].
4. Department Policy, Bridges Eligibility Manual (BEM) 137, p 1, indicates that the Healthy Michigan Plan provides health care coverage for individuals who are 19-64 years of age and do not qualify for or **are not enrolled in Medicare**. [BEM 137, p 1 (10/1/2016)(emphasis added)].
5. Petitioner credibly testified that she needs full Medicaid with no spenddown due to her health issues. [Testimony of [REDACTED], 8/15/2017].
6. The Department issued Petitioner a Health Care Coverage Determination Notice on [REDACTED], informing Petitioner that she had full Medicaid coverage from [REDACTED], through [REDACTED], with a \$ [REDACTED] monthly deductible beginning [REDACTED] ongoing, due to her excess income. [Dept. Exh. 4-7].
7. On [REDACTED], Petitioner submitted a Request for Hearing to the Department disputing the Medicaid spenddown. [Dept. Exh. 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.

Petitioner disputed the Department's calculation of her \$ [REDACTED] MA deductible for [REDACTED] ongoing.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105, p 1 (4/1/2017); BEM 137, p 1 (10/1/2016). Medicare recipients are not eligible for HMP. BEM 137, p. 1.

The evidence at the hearing established that Petitioner was a Medicare recipient. There was no evidence that she was the caretaker of a minor child, pregnant or recently pregnant. Therefore, the only MA coverage she is eligible for is under SSI-related MA categories.

In determining the SSI-related MA category Petitioner is eligible for, the Department must determine Petitioner's MA fiscal group size and net income. Because Petitioner is unmarried, her fiscal group size for SSI-related MA purposes is one. BEM 211, p 8 (1/1/2016), p. 8. At the time the Department determined Petitioner eligible for MA subject to a deductible, Petitioner had a total gross monthly RSDI income of \$ [REDACTED]. Petitioner's net income for MA purposes is \$ [REDACTED] (her gross income reduced by a \$ [REDACTED] disregard). BEM 541, p 3 (4/1/2017).

Based on her net income, Petitioner has excess income for eligibility under the AD-Care program, the full-coverage SSI-related MA program, which limits income-eligibility to individuals with monthly net income under \$ [REDACTED]. BEM 163, p 2 (7/1/2017); RFT 242, p 1 (4/1/2017); <https://aspe.hhs.gov/poverty-guidelines>. However, clients who are ineligible for full-coverage MA coverage because of excess income may nevertheless be eligible for Group 2 MA coverage, which provides for MA coverage with a deductible. BEM 105, p 1. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL), which is based on the client's county of residence and fiscal group size. BEM 105, p 1; BEM 166, p 2 (4/1/2017); BEM 544, p 1 (7/1/2016); RFT 240 p 1 (12/1/2013); RFT 200, p 3 (4/1/2017).

The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of one living in [REDACTED], is \$ [REDACTED] per month. RFT 200, pp 1-3; RFT 240, p 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$ [REDACTED], she is eligible for MA assistance under the deductible program, with the deductible equal to the amount that her monthly net income, less allowable deductions, exceeds \$ [REDACTED]. BEM 545, pp 2-3 (1/1/2017).

In determining the monthly deductible, a client's net income is reduced by health insurance premiums paid by the MA group and remedial service allowances for individuals in adult foster care or home for the aged. BEM 544, pp 1-3. In this case, Petitioner does not reside in an adult foster care home or home for the aged. Therefore, she is not eligible for any remedial service allowances.

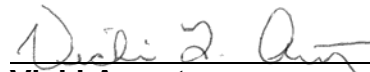
When Petitioner's \$ [REDACTED] net income is reduced by the \$ [REDACTED] PIL, Petitioner has excess income of \$ [REDACTED]. Therefore, the Department acted in accordance with Department policy when it concluded that Petitioner was eligible for MA subject to a monthly \$ [REDACTED] deductible.

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, finds that the Department acted in accordance with Department policy when it determined that Petitioner was eligible for MA subject to a monthly \$ [REDACTED] deductible.

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

VLA/bb



Vicki Armstrong
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]

Petitioner

[REDACTED]