



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: March 17, 2017
MAHS Docket No.: 17-000340
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 March 8, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Karina Littles, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) case and determine that she was eligible for MA with a monthly deductible?

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 was an ongoing recipient of MA benefits.
2. On December 28, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice advising that effective February 1, 2017, she was eligible for MA with a monthly deductible of \$916. (Exhibit A, pp. 4-7)
3. Petitioner receives gross monthly income from Retirement, Survivors and Disability Insurance (RSDI) benefits in the amount of \$1424 and is responsible for \$109 in monthly Medicare Part B premiums. (Exhibit A, p. 8-11)

4. On [REDACTED] 2016, Petitioner requested a hearing disputing the Department's actions, specifically the calculation of her monthly deductible. (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.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to her MA benefits. Specifically, Petitioner disputed the amount of her deductible effective February 1, 2017.

Petitioner, who has no minor children, is enrolled in Medicare and receives RSDI, is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (January 2016), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and eligible for Group 2 coverage, with a deductible that must be satisfied before MA is activated, when their income exceeds the income limit. BEM 105, p. 1. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2013), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (July 2013), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p.2. Petitioner has a MA fiscal group of one. BEM 211 (January 2016), p. 5. Effective April 1, 2016, a MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$990, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2016), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM

163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p.2. The Department testified that in calculating Petitioner's countable income, it considered \$1424 in gross monthly RSDI benefits, which Petitioner confirmed was correct.

After further review of Department policy and based on the evidence presented at the hearing, because Petitioner's countable income exceeds the \$990 net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad Care program without a deductible and determined that she would be eligible for MA under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

Additionally, 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 (January 2016), p 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp 1-2; BEM 544 (July 2013), p 1; RFT 240 (December 2013), p 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in Wayne County is \$375 per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p 1. Thus, if Petitioner's net monthly income is in excess of the \$375, she may become eligible for assistance under the deductible program, with the deductible being equal to the amount that her monthly income exceeds \$375. BEM 545, p 1.

The Department produced a SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit B). The Department testified that it calculated Petitioner's unearned income from monthly RSDI in the amount of \$1424 and the budget shows that it properly subtracted the \$20 unearned income general exclusion to determine that Petitioner's had net income for MA purposes of \$1404. The budget shows a deduction of \$109 which the Department stated was based on Petitioner's monthly responsibility for Medicare Part B premiums. An additional \$4 deduction was applied for the COLA Exclusion. There was no evidence presented that Petitioner was entitled to any other deductions to income BEM 530, pp 1-4; BEM 541, pp.2-3.

Because Petitioner's countable income of \$1291 for MA purposes exceeds the monthly protected income level of \$375 by \$916, the Department properly calculated Petitioner's monthly \$916 MA deductible in accordance with Department policy. Therefore, based on the information relied upon by the Department, the Department properly determined that Petitioner was eligible for MA under the G2S program with a monthly deductible of \$916.

At the hearing, Petitioner testified that she has ongoing monthly medical expenses and that she is treated by several physicians. Petitioner stated that she also receives

monthly injections and provided letters from her doctors in support of her testimony. (Exhibit 1). Petitioner confirmed however, that she provided the Department with the letters one week prior to the hearing, thus, the Department had not processed them. A review of the letters provided by Petitioner shows that while they indicate Petitioner is being treated by physicians, they do not have actual amounts of expenses incurred to be applied to a monthly deductible per policy. Petitioner is informed that should she provide the Department with acceptable verification of her ongoing and one time medical expenses, the Department will process the expenses and apply them to her deductible for the applicable months. See BEM 545.

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 processed Petitioner's MA case and determined that she was eligible for MA with a monthly deductible of \$916.

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



ZB/tlf

Zainab A. Baydoun

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:

DHHS Hearings Coordinator – 55
BSC4 Hearing Decisions
EQAD
M. Best
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
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