



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: April 12, 2017
MAHS Docket No.: 17-002426
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; 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 22, 2017, from Detroit, Michigan. The Petitioner was represented by Petitioner. [REDACTED] served as the [REDACTED] interpreter for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly the MA deductible for Petitioner and his wife 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. Petitioner applied for MA benefits.
2. The Department processed Petitioner's application for MA benefits.
3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that both he and his wife had been approved for MA benefits subject to a monthly deductible in the amount of \$ [REDACTED].

4. 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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

FAP

Petitioner checked the boxes on his Request for Hearing relating to both the FAP and MA programs. In the hearing summary (which Petitioner received in advance of the hearing) the Department only addressed the MA issue. Prior to ending the hearing in which only the issue of MA was addressed, the undersigned asked Petitioner if there was anything further he wished to state or present before closing the record. Petitioner indicated that there was nothing further he wished to address. As such, it appears that Petitioner did not have an issue with his FAP benefits that needed a resolution as of the hearing date. Therefore, Petitioner is deemed to have waived this issue and the Request for Hearing relating to the FAP issue only is dismissed.

MA

In this case, Petitioner argued that the deductible was excessive. In response, the Department argued that the G2C deductible was properly calculated. As such, the undersigned addressed whether the Department properly calculated Petitioner's G2C deductible effective [REDACTED].

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 Group 2 Medicaid in BEM 211. BEM 135, p. 2. In the present case, the Department is determining Petitioner's eligibility; therefore, the Department can only use his income in determining eligibility as well as his spouse's 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 2016), 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 Petitioner. See BEM 536, p. 1. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500 (January 2016), p. 4. This may be more than the actual amount an individual receives. BEM 500, p. 4.

First, a budgetable income will be done to determine the adult's (Petitioner's) prorated income. The Department testified that in determining Petitioner's eligibility, it used the following income: (1) \$ [REDACTED] paid on December 16, 2016; \$ [REDACTED] paid on [REDACTED]; (3) [REDACTED] paid on December 30, 2016; and (4) \$ [REDACTED] paid on [REDACTED]. Under policy, the Department is required to deduct \$90.00 from the countable earnings of each fiscal group member with earnings. BEM 536, p. 1. Thus, Petitioner's income totaled \$ [REDACTED].

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. Petitioner's number of dependents is three (spouse plus two minor child). The Department then adds 2.9 to Petitioner's number of dependents (three), which results in a prorate divisor of 5.9. BEM 536, p. 4. The Department will then divide Petitioner's total net income by the prorate divisor, which results in the adult's prorated share amount of \$ [REDACTED] (\$ [REDACTED] net income divided by 5.9 prorate divisor). BEM 536, p. 4.

The Department submitted a budget which listed Petitioner's adult prorated income as \$ [REDACTED]. Other than providing the income, the Department did not offer any other explanation as to how it arrived at \$ [REDACTED] as the adult prorated income. Because the adult prorated income used by the Department is incorrect, it is found that it failed to properly determine Petitioner's deductible amount.

Next, the Department presented a budget relating to Petitioner's wife's prorated income. The Department testified that in determining Petitioner's wife's eligibility, it used the

following income: (1) [REDACTED] paid on [REDACTED]; (2) \$ [REDACTED] paid on [REDACTED]; (3) \$ [REDACTED] paid on [REDACTED]; (4) \$ [REDACTED] paid on [REDACTED]. When \$ [REDACTED] is deducted from the income as required, Petitioner's wife's income totaled \$1 [REDACTED]. Petitioner's wife's number of dependents is also three (spouse plus two minor child). When the 2.9 is added to Petitioner's number of dependents (three), it results in a prorate divisor of 5.9. When Petitioner's wife's total net income is divided by the prorate divisor, Petitioner's prorated share amount is \$ [REDACTED].

The budget present by the Department relating to Petitioner's wife listed her adult prorated income as \$ [REDACTED]. As with Petitioner, other than providing the income, the Department did not offer any other explanation as to how it arrived at \$ [REDACTED] as the adult prorated income for Petitioner's wife. Because the adult prorated income used by the Department is incorrect, it is found that it failed to properly determine Petitioner's wife's deductible amount.

DECISION AND ORDER

Petitioner's [REDACTED] Request for Hearing as it relates to FAP benefits only is **DISMISSED**.


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 MA deductible for Petitioner and his wife.

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. Redetermine Petitioner and his wife's eligibility for MA benefits effective [REDACTED]
2. Issue supplements Petitioner's group was eligible to receive but did not; and
3. Notify Petitioner in writing of its decision.

JM/hw



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

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]