



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: October 31, 2017
MAHS Docket No.: 17-011279
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; 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 October 2, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Emily Luther, Assistance Payments Specialist.

ISSUE

Did the Department properly process Petitioner's son's (Child A) Medical Assistance (MA) benefits and determine that he 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. Child A was previously an ongoing recipient of MA benefits under the Transitional Medical Assistance (TMA) category. In connection with a redetermination, Child A's MA eligibility was reviewed. (Exhibit A, pp. 2-10)
2. On July 27, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective September 1, 2017 Child A was approved for MA with a monthly deductible of \$3,339. (Exhibit A, pp. 14-19)
3. Child A was approved for MA under the Group 2 Persons Under Age 21 (G2U) category.

4. Petitioner is employed and earns \$2,050 in gross biweekly wages. Petitioner's paystub reflects deductions to gross income for dental, medical, and vision insurance. (Exhibit A, p. 10-12; Exhibit B)
5. On August 17, 2017 Petitioner requested a 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 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.

MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (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 (October 2016), p. 1. For Group 1 MA categories, which have no deductible, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105, p. 1. Clients may be 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.

In this case, the Department testified that after processing Petitioner's redetermination, it determined that Child A was no longer eligible for MA under the Group 1 TMA category and was now eligible for MA under the G2U category with a monthly deductible of \$3,339 effective September 1, 2017. The Department notified Petitioner of the change in Child A's MA eligibility with the Health Care Coverage Determination Notice dated July 27, 2017.

Additionally, individuals are eligible for G2U MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 needs in BEM 544 and the MA protected income level (PIL), which is based on shelter area and fiscal group size. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 132 (October 2015), p. 1,3; BEM 544 (July 2016), p. 1-3; BEM 545 (January 2017); RFT 200 (December 2013); RFT 240

(December 2013), p. 1. A fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. The Department is to use the policies in BEM 500 and BEM 530 to determine each fiscal group member's countable earned income. BEM 211 (January 2016); BEM 536 (April 2017), p. 1.

In determining a person's eligibility and their fiscal group however, the only income that may be considered is the person's own income and the income of the following persons who live with the client: the client's spouse, and the client's parents if the client is a child. This means that a child's income cannot be used to determine a parent's eligibility. BEM 211, p. 5. Therefore, with respect to Child A's deductible, the monthly PIL for his three person fiscal group (Petitioner, his wife and Child A) living in Wayne county is \$532 per month. BEM 211, pp.5-6; RFT 200, p 1; RFT 240, p 1. A multi-step process is then utilized when determining a fiscal group member's income and deductible. BEM 536, pp. 1-7. Thus, if net monthly income is in excess of the applicable \$532 PIL, Child A may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the monthly income exceeds \$532. BEM 545, p 1.

The Department produced a G2-FIP Related (MA) Child Net Income results budget which was reviewed to determine if the Department properly calculated Child A's deductible (Exhibit A, p. 13). The Department testified that in calculating income for MA purposes, it considered Petitioner's biweekly wages and determined (based on the Work Number) that Petitioner's total monthly MA income was \$3,963.33. The Department is to then deduct \$90 as a standard work expense for earned income. There was no evidence presented that Petitioner received FIP benefits or LIF in the four calendar months prior to the month being tested, thus, Petitioner was not eligible for the \$30 plus 1/3 disregard. BEM 536, pp. 1-3.

With respect to the dependent care deduction, Petitioner testified that since August 2017, his son has been enrolled in child care which Petitioner pays for. The Department is to deduct an amount for dependent care expenses arising from employment from the remaining earnings of the parent in the fiscal group who pays for the care. The deduction is computed using the policy/criteria found in BEM 536, at pp. 2-3. Petitioner confirmed that he did not notify the Department of the expense at the time of the redetermination and that it was first reported at the hearing. Thus, the deduction was properly excluded from the calculation of net income. BEM 536, at pp. 2-3. There was no evidence presented that Petitioner's group was entitled to any other deductions to income.

Following the steps contained in BEM 536, the number of dependents (under the age of 18) living with the fiscal group member is also determined. This number is added to 2.9 to determine the prorated divisor. BEM 536, pp. 1-5. In this case, because Petitioner and his wife live together and have one child under age 18 living in the home, the prorated divisor is 4.9. BEM 536, pp. 3-5.

Although the Department properly determined the fiscal group's net income, the Department failed to consider Petitioner's responsibility for health insurance (medical, dental and vision) premiums as a need item as required by Department policy. The evidence established that Petitioner is responsible for health insurance premiums which are deducted/withheld from his biweekly paychecks and the costs of which must be converted to a monthly amount when being applied as a need item. BEM 544, pp. 1-2.

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 upon further review, and in consideration of the above referenced policies, because the Department did not consider health insurance premiums as a need item, the Department did not act in accordance with Department policy when it calculated Child A's deductible of \$3,339 effective September 1, 2017.

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. Recalculate Child A's MA deductible for September 1, 2017, ongoing;
2. Provide Child A with MA coverage that he was entitled to receive but did not from September 1, 2017, ongoing, and
3. Notify Petitioner of its decision in writing



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:

MDHHS-Wayne-18-Hearings
BSC4 Hearings
EQAD
M. Best
MAHS

Petitioner – Via First-Class Mail:

