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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: November 16, 2017
MAHS Docket No.: 17-011712
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 17, 2017 from Detroit, Michigan. The Petitioner appeared for the hearing with her mother, [REDACTED] and represented herself. The Department of Health and Human Services (Department) was represented by Serlibrity Goode, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) case and determine that she was eligible for MA under the Group 2 Caretaker Relatives (G2C) category with a monthly deductible of \$986?

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 previously approved for MA benefits under the Healthy Michigan Plan. (Exhibit D)
2. In connection with a Food Assistance Program (FAP) application, Petitioner submitted updated paystubs to the Department.
3. According to the paystubs and income verification submitted, Petitioner's federal taxable income for her check dated June 23, 2017 was \$975.27 and for July 7,

2017, her federal taxable income was \$934.00. Petitioner is also paid \$60 monthly for assisting another individual with household tasks. (Exhibit A, pp. 3-5)

4. The Department processed the pay information received, applied them to Petitioner's MA case, and determined that she was no longer income eligible for HMP MA benefits.
5. On July 12, 2017 the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising her that effective August 1, 2017 she was eligible for MA with a monthly deductible of \$986. The Notice further informed Petitioner that she was ineligible for MA under the HMP because her countable income exceeded the income limit. (Exhibit A, p. 6-8)
6. Effective August 1, 2017 Petitioner was approved for MA under the G2C category. (Exhibit D)
7. Petitioner confirmed: that she is [REDACTED] years old; that she is not disabled; that she is not enrolled in Medicare; that she is the parent or caretaker of one minor child; that she files a tax return; that she claims her child as a dependent on her tax return; and that she is not claimed as a dependent on another individual's tax return. Petitioner's household size for Modified Adjusted Gross Income (MAGI) Related MA purposes is two.
8. On August 29, 2017 Petitioner requested a hearing disputing the Department's actions with respect to her MA case.

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, which provides health care

coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 105 (January 2016), p. 1; BEM 137 (January 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.

At the hearing, the Department testified that after processing the paystubs submitted in connection with Petitioner's FAP application, it determined that she had excess income for MA under the HMP category.

HMP is a MAGI-related MA category that provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137, p. 1.

Petitioner, who is under age 64, not disabled, not enrolled in Medicare and is the caretaker of one minor child is potentially eligible for MA under the HMP. An individual is eligible for HMP if her household's income does not exceed 133% of the FPL applicable to the individual's group size. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. In this case, the evidence suggested that Petitioner's household size for MAGI purposes is two, Petitioner and child. 133% of the annual FPL for a household with two members is \$21,599.20. <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's household annual income cannot exceed \$21,599.20, as she is a current MA beneficiary.

The Department testified that in concluding that Petitioner had excess income for the HMP, it considered the pay information received, specifically federal taxable earnings of \$975.27 paid on June 23, 2017, \$934 paid on July 7, 2017 and monthly income of \$60. The Department stated that Petitioner's monthly earnings were \$1,969.27, which when projected annually, results in income greater than the \$21,599.20 income limit. Petitioner confirmed that the pay information was accurate and stated that it was expected to continue for the foreseeable future. Upon review of the amounts relied upon by the Department, Petitioner's projected annual MAGI is \$23,631.24 which is greater than the HMP income limit for her two person group size. Thus, the Department properly determined that Petitioner was ineligible for MA under the HMP and that she was eligible for MA under the G2C category, effective August 1, 2017.

Additionally, individuals are eligible for G2C 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 135 (October 2015), p 1,3; BEM 544 (July 2016), p 1-3; BEM 545 (January 2017); RFT 200 (April 2017); 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. Additionally, for the G2C category, an adult's fiscal group is the adult and the adult's spouse. Therefore, with respect to Petitioner's deductible, because she is unmarried, the monthly PIL for her one person fiscal group living in Oakland county is \$408 per month. BEM 211, pp.5-9; 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 \$408 PIL, Petitioner may become eligible for assistance under the deductible program, with the deductible being equal to the amount that the monthly income exceeds \$408. BEM 545, p 1.

The Department produced a G2-FIP Related (MA) Adult Net Income results budget which was reviewed to determine if the Department properly calculated Petitioner's deductible (Exhibit C). The Department testified that in calculating income for MA purposes, it considered the \$ 975.27 paid on June 23, 2017, \$934 paid on July 7, 2017 and monthly income of \$60 to conclude that Petitioner had monthly MA income of \$1,969.27 (Exhibit C, pp. 2-3). 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 September 2017, she has been responsible for child/dependent care expenses monthly. Department policy provides that 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 she did not notify the Department of the expense however, and that it was first reported at the hearing. Thus, the deduction was properly excluded from the calculation of net income at the time the budget was completed. 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 was

unmarried and had one child under age 18 living in the home, the prorated divisor is 3.9. BEM 536, pp. 3-5. There was no evidence presented that Petitioner was eligible for any additional needs based deductions to net income.

Upon further review, the Department properly determined that Petitioner had net income of \$1,394. Because \$1,394 exceeds the \$408 PIL by \$986, the Department properly calculated Petitioner's MA deductible of \$986 effective August 1, 2017.

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 calculated the amount of her MA deductible effective August 1, 2017.

DECISION AND ORDER

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:

MDHHS-Oakland-3-Hearings
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Petitioner – Via First-Class Mail:

