



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: December 7, 2017  
MAHS Docket No.: 17-013392  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**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 December 6, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Nicole Smith, Case Worker, and Rick Trudell, Supervisor.

**ISSUE**

Did the Department properly determine Petitioner and Petitioner's child's Medical Assistance (MA) eligibility?

**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 MA recipient.
2. On August 10, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was approved for MA benefits subject to a monthly deductible of \$4,674 for September 1, 2017, ongoing.
3. Petitioner was married and had two dependent minor children.
4. On [REDACTED], 2017, Petitioner gave birth to her third child.
5. On September 18, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her newborn child was approved for MA

benefits subject to a monthly deductible of \$4,777 for September 2017 and a deductible amount of \$4808 for October 1, 2017, ongoing.

6. On October 17, 2017, Petitioner submitted a request for hearing disputing her and her newborn child's MA eligibility.

### **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.

On August 10, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that she was eligible for MA benefits subject a monthly deductible of \$4,674, effective September 1, 2017, ongoing. On October 17, 2017, Petitioner submitted a hearing request, in part, to dispute the amount of her deductible.

The Department, in accordance with Department policy, reviewed Petitioner's circumstances and determined that, because she was pregnant, she was eligible for MA coverage under the Group 2 Pregnant Women (G2P) program. BEM 126 (January 2016). G2P is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1.

For purposes of Group 2 MA eligibility, Petitioner, who was married, had two minor and one unborn child at the time, was a group size of five. BEM 211 (January 2016), pp. 5-8. Because she lives in Kent County, her PIL is \$674. RFT 200 (December 2013), p. 2; RFT 240, p. 1. Thus, if her household's net income, calculated in accordance with BEM 536 (April 2017), pp. 1-7, exceeds \$674, Petitioner is eligible for MA assistance under

the deductible program, with the deductible equal to the amount that her monthly net income exceeds \$674.

The Department presented a copy of the G2P MA net income budget showing the calculation of Petitioner's monthly deductible (Exhibit E). According to the budget provided, Petitioner's group size was listed as 3. The Department conceded that was incorrect. As a G2P deductible is dependent on the correct determination of group size, it stands that the Department's calculation of Petitioner MA deductible was also incorrect. Therefore, the Department failed to establish that it properly calculated Petitioner's MA deductible amount.

Petitioner also submitted a hearing request to dispute the calculation of her newborn child's deductible amount. On September 18, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that her newborn child was approved for MA benefits subject to a monthly deductible of \$4,777 for the month of September 2017 and a deductible amount of \$4,808 for October 1, 2017, ongoing.

The Department testified that Petitioner's newborn child was only qualified for MA benefits under the Group 2 Persons Under Age 21 (G2U) program. The Department also testified that Petitioner's child's MA eligibility had been reviewed again, as Petitioner had reapplied for MA benefits for her newborn child. The Department stated Petitioner's newborn child had qualified for full-coverage MA benefits under the Newborns MA program effective September 1, 2017, ongoing. However, the Department did not provide written verification that was correct. Therefore, Petitioner's newborn child's MA eligibility will be addressed.

The Department testified Petitioner's newborn baby was not approved for MA benefits under the Newborns program, because Petitioner was not receiving MA benefits at the time of the child's birth. A newborn is automatically eligible for MA the month of birth if, for his date of birth, his mother receives Medicaid coverage, regardless of when that coverage is authorized. BEM 145 (July 1, 2016), p. 1. As stated above, Petitioner qualified for benefits under the G2P program effective September 1, 2017, ongoing. Petitioner's newborn child was born [REDACTED] 2017. Therefore, the Department failed to establish that it followed policy when determining Petitioner's child's MA eligibility.

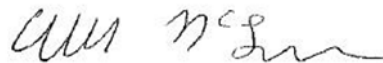
### **DECISION AND ORDER**

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's and Petitioner's newborn child's MA eligibility.

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 Petitioner's newborn child's MA eligibility as of September 1, 2017, ongoing;
2. Provide Petitioner and her newborn child with MA coverage they are eligible to receive for September 1, 2017, ongoing; and
3. Notify Petitioner of its MA decision in writing.



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**Ellen McLemore**

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**

MDHHS-Kent-Hearings

**Petitioner**



BSC4  
M Best  
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