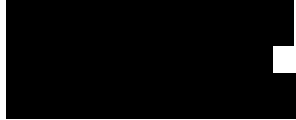




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: January 25, 2018  
MAHS Docket No.: 17-015746  
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 January 23, 2018, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Krystel Martin, Assistance Payments Worker.

**ISSUE**

Did the Department properly determine Petitioner'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 under the full-coverage Healthy Michigan Plan (HMP).
2. On October 23, 2017, Petitioner completed a redetermination.
3. Petitioner received Social Security benefits in the amount of \$1,129 per month (Exhibit A).
4. Petitioner has Medicare Part A and pays a monthly premium of \$104.90 for Medicare Part B.
5. Petitioner lived in [REDACTED].

6. On November 20, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was eligible for MA benefits subject to a monthly deductible of \$629 effective December 1, 2017, ongoing.
7. On December 4, 2017, Petitioner submitted 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 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 submitted a request for hearing disputing the Department's decision to move him from full-coverage MA benefits under the HMP program to a program with a deductible. Petitioner also disagreed with the amount of his deductible. On October 23, 2017, Petitioner completed a redetermination. Along with the redetermination, Petitioner submitted verification of his income from Social Security benefits (Exhibit A). The Department testified the income was not previously budgeted. The Department testified that Petitioner was income ineligible for HMP benefits. The Department sent a Health Care Coverage Determination Notice to Petitioner on November 20, 2017, informing him that he was eligible for MA benefits subject to a \$629 monthly deductible.

Although the Department testified Petitioner was income ineligible for HMP, Petitioner testified that he is a recipient of Medicare. Individuals who receive Medicare are not eligible for HMP. BEM 137 (October 2016), p. 1. Therefore, the Department properly determined Petitioner was not eligible for MA benefits under the HMP program.

The Department determined Petitioner was qualified for MA benefits under the Group 2-SSI-related (G2S) program, subject to a monthly deductible of \$629. As a disabled and/or aged individual, Petitioner is potentially eligible to receive MA benefits through AD-Care. Ad-Care is an SSI-related full-coverage MA program. BEM 163 (July 2017), p. 1. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2017), p. 2. The income limit for AD-Care for a one-person MA group is \$1025. RFT 242 (April 2017), p. 1. It was not disputed

that Petitioner receives \$1129 per month in Social Security benefits. As Petitioner is not married, per policy, Petitioner's fiscal group size for SSI-related MA benefits is one. BEM 211 (January 2016), p. 8.

The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such factors were applicable.

There was evidence presented that Petitioner pays \$168.40 in monthly child support. According to the letter from the Social Security Administration that the Department used to determine Petitioner's Social Security income, he is subject to a garnishment of \$168.40 for two child support orders. For individuals receiving SSI-related MA benefits, the Department will deduct court-ordered child support paid by an initial person's spouse to a child who does not live with the fiscal group. BEM 541 (October 2017), p. 1. The amount deducted is: the amount specified in the court order or the actual amount if less than the court order or the actual amount if more than the court order and the amount includes arrearages. BEM 541, p. 1. According to the G2S budget, Petitioner did not receive a deduction to income for the court-order child support. Thus, it is evident the Department did not consider the deduction when determining Petitioner's MA eligibility. With the deduction, Petitioner is potentially eligible for Ad-Care. Therefore, the Department failed to establish that it properly determined Petitioner's MA eligibility.

### **DECISION AND ORDER**

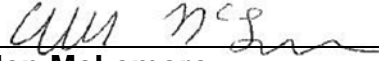
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's MA eligibility.

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's MA eligibility as of December 1, 2017, ongoing;
2. Provide Petitioner with MA coverage he is eligible to receive for December 1, 2017, ongoing;
3. Notify Petitioner of its MA decision in writing.

EM/cg



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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

**Via Email:**

MDHHS – Wayne -76- Hearings  
M. Best  
EQAD  
BSC4- Hearing Decisions  
MAHS

**Petitioner – Via First-Class Mail:**

