



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 11, 2018
MAHS Docket No.: 17-014597
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 14, 2017, from [REDACTED] Michigan. Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator. [REDACTED] served as a [REDACTED] interpreter. Department Exhibit 1, pp. 1-16 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) benefit?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 19, 2017, the Department determined that Petitioner's family was eligible for MA-G2C with \$ [REDACTED] deductible.
2. On October 26, 2017, Petitioner requested hearing.
3. Petitioner's wife and household member [REDACTED] has employment income of \$ [REDACTED] per month.

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.

DETERMINING BUDGETABLE INCOME

Group 2 Under 21 and Caretaker Relative Follow **Step 1** through **Step 16** below for each fiscal group member with income. Apply the deductions in the order the steps are listed.

Step 1 - Countable Earned Income

Use the policies in BEM 500 and 530 to determine each fiscal group member's countable earned income.

Step 2 - Standard Work Expense

Deduct \$90 from the countable earnings of each fiscal group member with earnings.

Step 3 - \$30 Plus 1/3 Disregard

Deduct \$30 plus 1/3 of a fiscal group member's remaining earned income if the member received FIP or LIF in at least 1 of the four calendar months preceding the month being tested.

Note: Received, for purposes of this disregard, includes months a member has been found eligible for LIF

RFT 295 lists the value of the 1/3 deduction.

Example: Harry's countable monthly earnings are \$420.98. The deductions are applied to \$420. $\$420 - \$90 = \$330$. $\$330 - \$30 = \$300$. 1/3 of \$300 is \$100. $\$300 - \$100 = \$200$.

Step 4 - Dependent Care Deduction

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.

Compute the dependent care deduction separately for each fiscal group member who pays for dependent care. The deduction is \$200 per month for each person receiving care, unless one of the rules below prohibits a deduction.

The following rules apply:

- The person receiving dependent care must:
 - Be living with the fiscal group member paying for the care, **and**
 - Be that fiscal group member's child, **and**
 - Be under age 13 or be under age 18 and need care due to a mental or physical limitation.
- If two parents in the fiscal group claim expenses for the same child, allow the deduction for the fiscal group member with the highest income.
- Do not allow the deduction if the employed person is paying a responsible relative of either the person paying for or the person needing care. Responsible relative means:
 - A person's spouse.
 - the parent of an unmarried child under age 18.
- Do not allow a deduction for a person receiving care if the **total** cost is paid by CDC or a third party.

Performing dependent care services should not interfere with the caregiver's schooling or employment.

**Step 5 -
Countable Child
Support**

Use policies in BEM 500 and 530 to determine countable child support income.

**Step 6 –
Child Support
Disregard**

Deduct \$50 from the child support received by a fiscal group member.

**Step 7 –
Other Unearned
Income**

Use the policies in BEM 500 and 530 to determine the fiscal group member's other countable unearned income.

**Step 8 –
Total Net
Income**

Add together the fiscal group member's remaining:

- Earned income, and
- Child support income, and
- Other unearned income.

**Step 9 –
Court-Ordered
Support**

Deduct court-ordered support paid by a fiscal group member to a child who does not live with the fiscal group. The deduction cannot be greater than the amount ordered for the month; arrearage payments are not deducted.

Step 10 - Guardianship/ Conservator Expenses

Deduct \$95 per month for court-appointed guardian and/or conservator expenses if verified paid by a fiscal group member.

Guardianship/conservator expenses include:

- Basic fee.
- Mileage.
- Other costs of performing guardianship/conservator duties.

Fiscal Group Member's Total Net Income

The result after **Step 10** is the fiscal group member's total net income.

Step 11 - Determine Dependents

Determine the number of dependents living with the fiscal group member.

Dependent means a person's spouse and child (ren).

Child (ren) means an unmarried person under age 18.

Note: Do not count the member being processed as a dependent. The member is included in **Step 12** and **Step 15**.

Skip **Step 12** and **Step 13** if a member's number of dependents is zero.

Step 12 – Prorate Divisor

Add 2.9 to the amount determined in **Step 11**. (2.9 is a calculation using federal needs allowances.) The result is the prorate divisor.

**Step 13 –
Child’s or
Adult’s Prorated
Share**

Divide the person’s total net income (the result from **Step 10**) by the prorate divisor (**Step 12**). The result is the prorated share of the fiscal group member’s income.

**Step 14 –
Non-Parent
Caretaker
Relative’s
Prorate Divisor**

This step applies to a fiscal group member who meets the following criteria:

- This person’s Group 2 MA eligibility is based on BEM 135, Group 2 Caretaker Relative, and
- This person is a core relative who is acting as parent for one or more dependent children in the home who are **not** the person’s own children. Example: Person is acting as parent for a grandchild or a stepchild who is a dependent child.

Note: Dependent child is defined in BEM 135. Also, keep in mind the following policies from BEM 135:

- A child can have only one **non-parent** caretaker relative.
- A non-parent can act as parent even if the parent is in the home. If the parent and non-parent both claim to be acting as parent, assume the parent is caring for the child.

Skip **Step 14**, **Step 15** and **Step 16** if the person does not meet the criteria above.

If the fiscal group member being tested meets the criteria above, determine the number of dependent children who:

- Are unmarried and under age 18, and
- This member acts as a parent for but is **not** the parent of.

**Step 15 –
Non-Parent
Caretaker
Relative’s
Prorate Divisor**

Add the following three amounts:

- Amount from **Step 11**, and
- Amount from **Step 14**, and
- 2.9.

**Step 16 –
Non-Parent
Caretaker’s
Prorated Share**

Divide the person’s total net income (the result from **Step 10**) by the non-parent caretaker relative’s prorate divisor (**Step 15**). The result is the prorated share of the fiscal group member’s income for purposes of determining the member’s eligibility.

Repeat **Step 1** through **Step 13** and if appropriate, **Step 14** through **Step 16** for each fiscal group member with income before proceeding to **FISCAL GROUP’S NET INCOME**.

**FISCAL
GROUP’S NET
INCOME**

Group 2 Under 21 and Caretaker Relative

**Child’s Fiscal
Group’s Net
Income**

A child’s fiscal group’s net income is the total of the following amounts:

- The child’s net income (**Fiscal Group Member’s Total Net Income**) if the child has no dependents or 2.9 prorated shares of the child’s own income if the child has dependents (child’s **Step 13** times 2.9), plus
- For each parent in the fiscal group, 3.9 prorated shares of the parent’s own income (each parent’s **Step 13** times 3.9), plus

Note: This is the child's and parent's share of the parent's income.

- One prorated share of each of the parent's own income (each parent's **Step 13**) when:
 - Both of the child's parents are in the child's fiscal group, and
 - The parents are married to each other.

Note: This is the couple's share of each other's income.

Adult's Fiscal Group's Net Income

An adult's fiscal group's net income is the total of the following amounts:

- The adult's net income (**Fiscal Group Member's Total Net Income**) if the adult has no dependents **or** 2.9 prorated shares of the adult's own income if the adult has dependents (adult's **Step 13** times 2.9), plus
- If the spouse is in the adult's fiscal group:
 - 3.9 prorated shares of the spouse's own income (spouse's "**Step 13**" times 3.9), plus
 - One prorated share of the adult's (person requesting MA) income (adult's amount from **Step 13**).

Note: This is the couple's share of each other's income.

INCOME ELIGIBILITY

Group 2 Under 21 and Caretaker Relative

Group 2 Determination

Use the policies in BEM 544 and 545 to complete the determination of income eligibility for each person requesting MA. BEM 536

In this case, the Department determined that Petitioner was entitled to MA-G2C benefits with a \$█ deductible. Department policy on MA budgeting in BEM 536 dictates how

Petitioner's deductible was calculated. After subtracting the earned income disregard, apportioning amounts for the minor children in the household and taking into consideration the protected income level based on Petitioner's shelter area the Department correctly determined the \$ [REDACTED] deductible amount for the household.

Petitioner raised issues at hearing with regard to his 20-year-old child not being included in the household. Petitioner raised issues with regard to his wife's employment income fluctuating. The Department properly did not include Petitioner's adult child in the household when determining Petitioner's MA eligibility and deductible amount. Petitioner's wife's employment income from US Farthane was budgeted pursuant to Department policy. BEM 501 The Department reviewed Petitioner's wife's pay stubs for the month of August 2017. (Dept. Ex. 1, pp. 13-16) If Petitioner's wife's employment income is reduced substantially then Petitioner can request that his eligibility be redetermined.

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 determined Petitioner's MA eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/md



Aaron McClintic

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]

Petitioner

[REDACTED]