



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 10, 2018
MAHS Docket No.: 17-015175
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 3, 2018 from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly calculate the Petitioner's Medical Assistance (MA) deductible of \$ [REDACTED]

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 August 25, 2017, the Petitioner provided the Department with a letter from the Social Security Administration verifying his receipt of Social Security benefits.
2. The Petitioner receives \$ [REDACTED] each month in Social Security benefits before deduction of \$ [REDACTED] for medical insurance premiums.
3. On September 25, 2017, the Department issued a Health Care Coverage Determination Notice (HCCDN) approving the Petitioner for full coverage in the Medicare Saving Program (MSP) beginning September 1, 2017 ongoing and for MA coverage beginning November 1, 2017 ongoing with a \$ [REDACTED] monthly deductible.

4. On November 17, 2017, the Petitioner submitted a hearing request to the Department disputing the \$ [REDACTED] per month deductible.

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, the Petitioner is disputing the Department's calculation of his MA deductible.

Petitioner, who has no minor children, is enrolled in Medicare and receives [REDACTED] is eligible for SSI-related MA, which is MA for individuals who are blind, disabled or over age 65. BEM 105 (April 2017), p. 1. Individuals are eligible for Group 1 coverage, with no deductible, if their income falls below the income limit, and 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. Ad-Care coverage is a SSI-related Group 1 MA category which must be considered before determining Group 2 MA eligibility. BEM 163 (July 2017), p. 1. Eligibility for Ad-Care is based on the client meeting nonfinancial and financial eligibility criteria. BEM 163, pp. 1-2. The eligibility requirements for Group 2 MA and Group 1 MA Ad-Care are the same, other than income. BEM 166 (April 2017), pp. 1-2.

Income eligibility for the Ad-Care program is dependent on MA fiscal group size and net income which cannot exceed the income limit in RFT 242. BEM 163, p.2. Petitioner has a MA fiscal group of one. BEM 211 (January 2016), p. 5. Effective April 1, 2016, a MA fiscal group with one member is income-eligible for full-coverage MA under the Ad-Care program if the group's net income is at or below \$1,010.00, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2017), p. 1.

The Department is to determine countable income according to SSI-related MA policies in BEM 500 and 530 *except* as explained in the countable RSDI section of BEM 163. The Department will also apply the deductions in BEM 540 (for children) or 541 (for adults) to countable income to determine net income. BEM 163, p.2. The Department testified that in calculating Petitioner's countable income, it considered \$ [REDACTED] in gross

monthly RSDI benefits, which Petitioner confirmed was correct. Petitioner's net income is \$ [REDACTED] his gross income less the \$20.00 disregard. BEM 541 (April 2017), p. 3.

After further review of Department policy and based on the evidence presented at the hearing, because Petitioner's countable income exceeds the \$1,010.00 net income limit for the Ad-Care program, the Department acted in accordance with Department policy when it determined that Petitioner was ineligible for full coverage MA benefits under the Ad Care program without a deductible and determined that he would be eligible for MA under the Group 2 SSI-related (G2S) program for aged, blind, and disabled individuals with a monthly deductible.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545 (January 2017), p 10. Individuals are eligible for Group 2 MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 MA protected income levels (PIL), which is based on shelter area and fiscal group size. BEM 105, pp. 1-2; BEM 166, pp 1-2; BEM 544 (July 2016), p 1; RFT 240 (December 2013), p 1. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 544, p. 1. The monthly PIL for an MA group of one living in Oakland County is \$408 per month, which the Department properly determined in this case. RFT 200 (April 2017), p. 1; RFT 240, p 1. Thus, if Petitioner's net monthly income is in excess of the \$408, he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$408. BEM 545, p 1.

In support of its position, the Department submitted an SSI Related Medicaid (Adults) budget. The budget properly includes Petitioner's unearned income and the unearned income general exclusion for a net unearned Income of \$ [REDACTED] BEM 541. (April 2017), p. 3. The Petitioner has no other income sources other than his Social Security benefit. In reviewing the remainder of the budget, the Department failed to include Petitioner's medical insurance premium which is deducted from his social security payment each month. The Department is required to count as a need item the cost of any health insurance premiums and Medicare premiums paid by the medical group regardless of who the coverage is for. BEM 544 p. 2. Since the Department did not consider the Petitioner's Medicare premium, the Department did not properly calculate Petitioner's deductible. No evidence was presented that Petitioner was entitled to any other deductions to income. BEM 530, pp 1-4; BEM 541, pp.2-3.

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 did not act in accordance with Department policy when it calculated Petitioner's MA deductible.

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



AM/kl

Amanda M. T. Marler
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

[REDACTED]

Petitioner via USPS

[REDACTED]