



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 23, 2018
MAHS Docket No.: 18-001522
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 April 19, 2018, from Detroit, Michigan. The Petitioner was self-represented and appeared with his case worker, [REDACTED], MSW. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payments Worker.

ISSUE

Did the Department properly calculate Petitioner's Medical Assistance (MA) program deductible?

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 is an ongoing MA recipient.
2. On December 11, 2017, Petitioner's authorized representative participated in a hearing before Administrative Law Judge Kevin Scully (ALJ) regarding Petitioner's MA deductible and FAP benefit rate in Michigan Administrative Hearing System (MAHS) docket number 17-014551.
3. On December 21, 2017, ALJ issued a decision in the above docket number holding that the Department had properly calculated Petitioner's MA benefit including his deductible but did not properly calculate Petitioner's FAP benefit rate.

4. As a result of ALJ's decision, the Department updated information in Petitioner's case including Petitioner's Retirement, Survivors, and Disability Insurance (RSDI) income and medical expense.
5. On January 5, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) notifying Petitioner of his new MA coverage with a \$ [REDACTED] deductible effective February 1, 2018.
6. On February 1, 2018, Petitioner submitted a hearing request disputing the calculation of his MA benefit.

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.

At the hearing, Petitioner seemed to be arguing about the calculation of his MA benefits from his application in September 2017 and also the recalculation of his benefits in January 2018. Petitioner's concerns regarding his MA benefits from September 2017 through December 2017 were addressed by the decision of ALJ on December 21, 2017. Once an issue has been addressed by one administrative law judge, it cannot be addressed again by another. Therefore, this decision cannot address issues previously decided by ALJ. If Petitioner continues to have concerns regarding the decision of ALJ, Petitioner should consult the final page of ALJ's decision for information on how to proceed.

Turning to the determination of MA eligibility for Petitioner after changes prompted by ALJ's decision beginning February 1, 2018, Petitioner believes that the Department did not properly consider his circumstances.

Petitioner is enrolled in Medicare and receives RSDI. No evidence was presented that he has minor children. Therefore, he is eligible for Supplemental Security Income (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 an 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 an MA fiscal group of one. BEM 211 (January 2016), p. 5. Effective April 1, 2017, an 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 \$1,005.00, which is 100 percent of the Federal Poverty Level minus 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 did not dispute. Next, the Department properly applied the \$20 disregard. BEM 541 (January 2018), p. 3. No evidence was presented regarding court ordered child support, blind and/or impairment-related work expenses, guardian/conservator expenses, or work expenses. Therefore, Petitioner's net income is \$[REDACTED]. Since his income is greater than the net income limit discussed above, Petitioner is not eligible for full-coverage MA under the Ad-Care program and instead is eligible under the Group 2 Aged Blind Disabled (G2S) program with a monthly deductible.

A 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, not necessarily paid. 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 \$[REDACTED] per month. RFT 200 (December 2013), pp. 1-2; RFT 240, p. 1. Thus, if Petitioner's net monthly income is in excess of the \$[REDACTED] he may become eligible for assistance under the deductible program, with the deductible being equal to the amount that his monthly income exceeds \$[REDACTED]. BEM 545, p. 1.

The Department produced an SSI-Related MA budget showing how the deductible in Petitioner's case was calculated. (Exhibit A, pp. 4-5). The Department testified that it calculated Petitioner's unearned income from monthly RSDI in the amount of \$ [REDACTED] and the budget shows that it properly subtracted the \$ [REDACTED] unearned income general exclusion to determine that Petitioner's had net income for MA purposes of \$ [REDACTED]. In January 2018, the Department also considered an insurance premium of \$ [REDACTED] which was adjusted in February 2018 to \$ [REDACTED]. The reduction of Petitioner's insurance premium from January to February remains unclear as the Department was aware of Petitioner's \$ [REDACTED] Medicare Part B premium. The reduction from January to February in the insurance premium represents \$ [REDACTED] or the value of the Part B premium. No evidence was presented that Petitioner was no longer eligible for Part B nor that anyone else was paying that expense for him. Finally, the Department considered a \$ [REDACTED] cost of living adjustment exclusion. There was no evidence presented that Petitioner was entitled to any other deductions to income under BEM 530, pp. 1-4; BEM 541, pp. 2-3.

Since the Department did not adequately explain the reduction in Petitioner's medical expense from January to February for exactly the same value as his Medicare Part B premium which it was aware of, the Department has not met its burden of proof in establishing that it correctly determined Petitioner's MA eligibility.

Finally, it should also be noted that the Department is obligated to consider Petitioner's eligibility in all MA categories so that a client may have a meaningful choice in selection of their coverage. BEM 105 (April 2017), p. 3. Given Petitioner's status as an RSDI and Medicare Part B recipient, Petitioner may be eligible for one of the Medicare Savings Programs (MSP). MSP is a State administered program in which the State pays an income eligible client's Medicare premiums, coinsurance, and deductibles. BEM 165, (January 2018), p. 2; BAM 810 (January 2018), p. 6. There are three MSP categories: (1) Qualified Medicare Beneficiaries (QMB), which pays for a client's Medicare premiums (both Part A, if any, and Part B), Medicare coinsurances and Medicare deductibles; (2) Specified Low-Income Medicare Beneficiaries (SLMB), which pays for a client's Medicare Part B premiums; and (3) Additional Low Income Medicare Beneficiaries (ALMB), which pays for a client's Medicare Part B premiums when funding is available. BEM 165, pp. 1-2. The MSP category a client is eligible for is dependent on the client's income. BAM 810, p. 6; BEM 165 (January 2018), p. 1.

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.

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. Redetermine Petitioner's MA eligibility beginning February 2018 ongoing;
2. If Petitioner is eligible for MA coverage greater than the coverage previously received, issue supplements to Petitioner or on behalf of Petitioner in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.



AM/

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

DHHS

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
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