



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: December 19, 2017  
MAHS Docket No.: 17-014311  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 11, 2017, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED], Assistance Payments Worker.

**ISSUE**

Did the Department properly calculate the Petitioner's Medical Assistance (MA) Spend down (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. The Petitioner and his wife are receiving Medical Assistance with a spend down of [REDACTED] per month. Exhibit 1.
2. The Petitioner and his wife at the time the spend down was calculated were both employed with earned income.
3. The Petitioner and his wife provided the Department pay stubs for September 2017 which were used to determine the monthly spend down amount. Exhibit 2 and 3.
4. The Petitioner, [REDACTED], is paid weekly and receives income and tips. Exhibit 3. [REDACTED], the Petitioner's wife, is also paid weekly.

5. The Department used the following monthly income when calculating the MA budget for the spend [REDACTED] and [REDACTED]. Exhibit 6.
6. The Petitioner's household consists of [REDACTED] members, the Petitioner and his wife, two minor children age [REDACTED] and [REDACTED] and a third child, age 22.
7. The Department issued a Health Care Coverage Determination Notice on October 27, 2017 which imposed a spend down of [REDACTED] as a monthly deductible for Petitioner and his wife. Exhibit 1.
8. The Petitioner requested a timely hearing on October 24, 2017 protesting 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, the Department placed the Petitioner and his wife on a spend down after an October 2017 annual review. The Department based upon the pay stubs provided during the review, determined that based on the Petitioner's group income, he and his wife were eligible for MA subject to a [REDACTED] monthly spend down. The Petitioner and his wife each provided 5 pay stubs for September 2017. The Department determined that their averaged earned income for MA budgeting was [REDACTED] for Petitioner and [REDACTED] for his wife. Exhibit 6

In the present case, Petitioner was found to be eligible for MA – G2C coverage (hereinafter referred to as "G2C") effective November 1, 2017, but subject to a [REDACTED] deductible. As such, the Department presented the G2C budget for review.

G2C is a Group 2 MA category. BEM 135 (October 2015), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors in this item. BEM 135, p. 1. All eligibility factors must be met in the calendar month being tested. BEM 135, p. 1.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135, p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. BEM 135, p. 2. If the net income exceeds Group 2 needs, MA eligibility is still possible. BEM 135, p. 2.

The Department also uses the fiscal group policies for FIP-related groups in BEM 211. BEM 135, p. 2. In the present case, the Department budget presented was used for determining the Petitioner's eligibility; therefore, the Department can use his income in determining eligibility as well as his spouse's (wife's) income. See BEM 211 (January 2016), p. 8.

Additionally, BEM 536 outlines a multi-step process to determine a fiscal group member's income. BEM 536 (April 2017), p. 1. In this case, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. BEM 536, p. 1. Therefore, a budgetable income will be determined for the Petitioner as his budget was provided. See BEM 536, p. 1.

When calculating the spend down amount, the Department used 5 pay stubs for September 2017 for Petitioner which he provided to the Department. Exhibit 3. The 5 gross pays when added together total \$ [REDACTED] and is divided by 5 to get the average weekly amount which is [REDACTED], which is multiplied by 4 to get the average monthly amount which is [REDACTED]. The Department came up with a lower amount [REDACTED] which will be used for reviewing the budget provided at the hearing as the difference can be adjusted and recalculated if the Department determines it is necessary. Exhibit 5. The policy found in BEM 536 is applied to determine the spend down amount and applies a 16 step calculation. BEM 536 (October 2017) p. 1-7.

First a standard work expense of [REDACTED] is deducted from the Petitioner's average monthly income, [REDACTED]. Next the Fiscal Group's total net income is determined by determining the Petitioner's dependents. The Petitioner has minor dependents (2) and his spouse (1) resulting in 3 dependents. BEM 536, p. 4. In order to be included as a dependent, a child must be 18 years of age or younger. BEM 536 and 135. The number of dependents (3) are added to the pro rate divisor of 2.9 and the total 5.9, is divided into [REDACTED] which results in [REDACTED] this amount is the Adult's (Petitioner's) prorated income.

Next the Petitioner's wife's prorated income must be determined. A review of the Department's determination of the wife's average monthly income based upon the pay stubs provided, adding the pays together dividing by number of pays (5) and multiplied by 4 resulted in an average monthly income of [REDACTED] and is determined correct. The wife's average monthly income of [REDACTED] is reduced by [REDACTED] which results in [REDACTED], which is also divided by 5.9 and equals [REDACTED] which is the Petitioner's wife's prorated income.

The last step in determining the deductible is to determine total net income. First the adult's (Petitioner's) prorated income of [REDACTED] is multiplied by 2.9 which equals [REDACTED]. Next, the Petitioner's wife's prorated income of [REDACTED] is multiplied by 3.9 which totals [REDACTED]. BEM 536 p. 6-7. These sums are added together and total [REDACTED]. The last step of the formula requires that the couple's share of each other's income, which is [REDACTED], is added to [REDACTED] which totals [REDACTED], which is the Petitioner's Total Net Income.

Next, the protected income level is deducted from the total net income. The protected income limit for [REDACTED] for a group of 2, husband and wife is [REDACTED]. RFT 200. The income limit is deducted from the total net income leaving [REDACTED] as the Petitioner's deductible which is correct. [REDACTED] | [REDACTED] [REDACTED]). Although the Department did not provide a budget for Petitioner's spouse, the budget as calculated for Petitioner using the correct average monthly amount for both Petitioner and his spouse would result in the same deductible for his wife as well as they are in the same MA group.

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 the Petitioner's MA deductible to be [REDACTED]

### **DECISION AND ORDER**

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

LF/tm



**Lynn M. Ferris**

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]  
[REDACTED]  
[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

CC: [REDACTED]  
[REDACTED]