



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: July 26, 2018  
MAHS Docket No.: 18-005053  
Agency No.: ██████████  
Petitioner: ██████████

**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 July 26, 2018, from Detroit, Michigan. The Petitioner did not appear at the hearing. The Petitioner was represented by ██████████, his Attorney and Guardian. ██████████, Petitioner's mother also appeared as a witness. The Department of Health and Human Services (Department) was represented by Jennifer Sabo, Assistance Payments Supervisor, and Dawn Solomon, Eligibility Specialist.

**ISSUE**

Did the Department properly close the Petitioner's Ad Care Medicaid Program and impose a medical 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 is disabled and receives Retirement, Survivors and Disability Insurance (RSDI) from the Social Security Administration (SSA) in the amount of \$ ██████████ monthly.
2. The Petitioner was enrolled in a waiver program operated by the Area Agency on Aging for Grand Traverse County. The Area Agency on Aging for Northwest Michigan notified the Department that Petitioner was dis-enrolled from the Waiver Program on April 23, 2018. (Exhibit A.)

3. The Department sent a Notice of Case Action dated May 2, 2018, notifying the Petitioner that effective June 1, 2018, the Petitioner was eligible for Medical Assistance (MA) benefits subject to an \$ [REDACTED] deductible and continued to be eligible for Full Coverage Medicare Savings Program. (Exhibit D.)
4. The Petitioner is a group of one individual for purposes of Medicaid.
5. The Petitioner's attorney requested a timely hearing on May 14, 2018, 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 Petitioner, through his Attorney and Guardian, seeks review of the Department's closure of Ad Care full coverage MA due to the dis-enrollment in the waiver program by another agency, the Area Agency on Aging, which is not affiliated with the Department. Once the Petitioner was dis-enrolled, the Department reviewed the Petitioner's eligibility for full coverage Ad Care and determined that Petitioner was no longer eligible for the Ad Care program due to his income exceeding the income limit for the program. The Petitioner, a single person, receives \$ [REDACTED] monthly, which is his sole income. The income limit for the Ad Care program for a single person is \$1,031.68. RFT 242 (April 2018), p. 2. Thus, based upon his income, the Petitioner's income exceeds the Ad Care income limit.

The Petitioner sought review of the Department's determination of a MA spenddown or deductible of \$ [REDACTED] monthly effective June 1, 2018. (Exhibit D.)

The Department presented an MA spenddown budget at the hearing, which was reviewed. (Exhibit B.)

Clients who are not eligible for full MA coverage because their net income exceeds the applicable Group 2 MA Protected Income Levels (PIL) based on their shelter area and

fiscal group size, are eligible for MA coverage under the deductible program with the deductible equal to the amount their monthly net income exceeds the PIL. BEM 135 (October 1015), p. 2; BEM 544 (July 1, 2016), p. 1; BEM 545 (April 2018), pp. 1-2; RFT 240 (December 1, 2013), p. 1.

Income eligibility for full coverage MA Ad Care requires:

Net income cannot exceed one hundred percent of the federal poverty level. The net income limit can be determined by subtracting twenty dollars from the income limits listed in table one of RFT 242. Income eligibility cannot be established with a patient-pay amount or by meeting a deductible. BEM 163 (July 2017), p. 1.

RFT 242 (April 1, 2018), p. 2 provides that the income limit for a group of one person is \$1,031.67. The Petitioner's net income is \$1,218.00; and thus, his income exceeds the net income limit to be eligible for full coverage Ad Care. Thus, the Department was correct to terminate full coverage MA based upon excess income and impose a deductible after it received notification that Petitioner was dis enrolled from the waiver program.

Income eligibility for full coverage MA exist for the calendar monthly tested when:

- There is no excess income.
- Allowable medical expenses (defined in **EXHIBIT I**) equal or exceed the excess income.

When **one** of the following equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**:

- Old bills (defined in EXHIBIT IB).
- Personal care services in a client's home, (defined in Exhibit ID), Adult Foster Care (AFC), or Home for the Aged (HA) (defined in EXHIBIT ID).
- Hospitalization (defined in EXHIBIT IC).
- Long-term care (defined in EXHIBIT IC).

When **one** of the above does **not** equal or exceed the group's excess income for the month tested, income eligibility begins either:

- **The exact day of the month** the allowable expenses **exceed** the excess income.

- **The day after the day of the month** the allowable expenses **equal** the excess income. BEM 545, p. 1.

The fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 11.

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. BEM 545, p. 10. The fiscal group's monthly excess income is called a deductible amount. BEM 545, p. 11. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 11.

The monthly PIL for an MA group of one (Petitioner) living in Grand Traverse County is \$391.00. BEM 211 (November 2012), p. 5; RFT 200 (April 2017), p. 2; RFT 240 (December 2013), p. 1. Therefore, Petitioner's MA coverage is subject to a deductible if Petitioner's monthly net income, based on gross income, is greater than \$391.00.

At the hearing, the Petitioner's MA deductible budget was also reviewed to determine if the deductible in the amount of \$ [REDACTED] was correct. The Department used the correct income of \$ [REDACTED] and credited the Petitioner with a \$20.00 unearned income general exclusion and leaving countable income of \$ [REDACTED]. In the budget presented, the Petitioner did not present any medical bills which will also cause a reduction in the deductible spenddown amount but only when bills are presented to the Department. The last step to determine the deductible is to subtract the protected income level (PIL) for Grand Traverse County which is \$391.00 from the countable income of \$ [REDACTED]. This leaves a deductible of \$ [REDACTED] (Exhibit B.)

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 closed the Petitioner's Ad Care full coverage Medicaid and imposed a deductible of \$ [REDACTED].

### **DECISION AND ORDER**

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

LMF/



**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) 763-0155; 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**

Eileen Asam  
MDHHS-Grand Traverse-Hearings

**Petitioner**

[REDACTED]  
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**Counsel for Petitioner**

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