



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 27, 2018
MAHS Docket No.: 18-001533
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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, an in-person hearing was held on April 26, 2018, from Detroit, Michigan. Petitioner was present with her representatives [REDACTED] and [REDACTED]. Present on behalf of the Department of Health and Human Services (Department) was Timothy Wortz, Assistance Payments Supervisor and Patrick Patillo, Assistance Payments Worker. The Department was represented by Daniel Beaton.

ISSUE

Did the Department properly determine Petitioner's and Petitioner's wife's Medical Assistance (MA) eligibility?

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 and Petitioner's wife were ongoing recipients of MA benefits under the Healthy Michigan Plan (HMP).
2. In [REDACTED] 2017, Petitioner and Petitioner's wife were scheduled to complete a redetermination.
3. On November 8, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that he and his wife were eligible for MA

benefits subject to a monthly deductible of \$1,237 effective December 1, 2017, ongoing (Exhibit B).

4. On [REDACTED], 2017, Petitioner submitted an application for MA benefits for himself and his wife.
5. On November 16, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that his wife was eligible for MA benefits subject to a monthly deductible of \$1,749, effective December 1, 2017, ongoing (Exhibit C).
6. Petitioner and Petitioner's wife had income from employment.
7. Petitioner and Petitioner's wife had six children.
8. At the time of the application for MA benefits, Petitioner's wife was pregnant.
9. On February 2, 2018, Petitioner submitted a request for hearing disputing the Department's actions regarding his and his wife's MA eligibility.

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, Petitioner disputed the Department's determination that he and his wife were eligible for MA benefits subject to a deductible. Petitioner and his wife were previously receiving benefits under the full-coverage HMP program. Petitioner was scheduled to complete a redetermination in [REDACTED] 2017. On November 8, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he and his wife were approved for MA benefits subject to a monthly deductible of \$1,237 effective December 1, 2017, ongoing. Petitioner was advised by the Department to reapply for MA benefits. On [REDACTED], 2017, Petitioner submitted a new application for MA benefits on behalf of himself and his wife. According to the hearing summary, the result of the application was the approval of MA benefits subject to a

deductible. The Department sent a Health Care Coverage Determination Notice on November 16, 2017, informing Petitioner that his wife was eligible for MA benefits subject to a deductible of \$1,749 effective December 1, 2017, ongoing.

The Department conceded that it erred when placing Petitioner's wife in an MA program subject to a deductible. Petitioner's wife was pregnant and was eligible for the MA programs for pregnant women. Pregnant Women (PW) MA is a MAGI-related Medicaid category. BEM 125 (July 2016), p.1. MA is available to a woman while she is pregnant, the month her pregnancy ends, and during the two calendar months following the month her pregnancy ended regardless of the reason (for example, live birth, miscarriage, stillborn). BEM 125, p. 1. Income eligibility exists when net income does not exceed 195% of the federal poverty level. BEM 125, p. 2. The Department testified that Petitioner's wife was approved for full-coverage MA benefits effective March 1, 2018, ongoing (Exhibit D). However, the Department stated that Petitioner's wife has been eligible for full-coverage MA benefits since December 1, 2017. Therefore, the Department did not act in accordance with policy when it determined Petitioner's wife's MA eligibility as of December 1, 2017.

On November 8, 2017, the Department sent Petitioner notice stating he was approved for MA benefits subject to a monthly deductible of \$1,237. On [REDACTED], 2017, Petitioner submitted a new application. The Department determined Petitioner was still income ineligible for HMP benefits and was only eligible for MA benefits subject to a monthly deductible of \$1,237 under the Group 2 Caretaker Relatives (G2C) program.

HMP uses a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if his household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status.

G2C is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (October 2017), p. 1. For purposes of determining an adult's eligibility for Group 2 MA, only the income for the adult and his spouse, if any, is considered. BEM 211, p. 5.

The Department presented a New Hire Client Notice and attached pay statements that were used to calculate Petitioner's wife's income when determining Petitioner's MA eligibility. The Department testified it determined Petitioner's wife had a monthly income of \$960. In the notice, when asked how much his wife was paid, Petitioner indicated that she was paid \$480 per month. When asked how often she was paid, Petitioner indicated twice per month. The Department believed Petitioner's wife was paid \$480,

twice per month. However, the pay statements attached to the notice clearly indicate Petitioner's wife was paid \$240 twice per month, for a total monthly income of \$480. The Department conceded it miscalculated Petitioner's wife income. As both the MAGI-related methodology under the HMP program and the calculation of a deductible under the G2C program take into consideration Petitioner's wife's income, the Department did not properly follow policy when determining Petitioner's MA eligibility.

DECISION AND ORDER

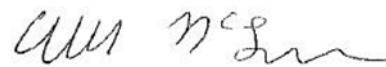
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Petitioner's and Petitioner's wife's MA eligibility.

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 and Petitioner's wife's MA eligibility as of December 1, 2017, ongoing;
2. Provide Petitioner and his wife with MA benefits they are entitled to receive as of December 1, 2017, ongoing;
3. Notify Petitioner of its MA decision in writing.

EM/cg



Ellen McLemore
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:

MDHHS-Washtenaw-20-Hearings
AG-HEFS-MAHS
M. Best
EQAD
BSC4- Hearing Decisions
MAHS

**Petitioner –
Via First-Class Mail:**

[REDACTED]

**Counsel for Petitioner –
Via First-Class Mail:**

[REDACTED]