



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 12, 2019
MAHS Docket No.: 19-000915
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 March 20, 2019, from Lansing, Michigan. The Petitioner was represented by herself. ██████████ ██████████ also appeared and testified. The Department of Health and Human Services (Department) was represented by Candice Bennis Hearing Facilitator. Department Exhibit 1, pp. 1-7 was received and admitted.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance benefit and deductible amount?

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 previously received MA-HMP.
2. Petitioner receives monthly social security RSDI benefit of \$████████ per month.
3. Petitioner's husband receives social security RSDI benefit of \$████████ per month.
4. On July 23, 2018, a Health Care Coverage Determination Notice was sent to Petitioner informing her that she was eligible for MA with a \$2,086 deductible effective August 1, 2018.
5. On January 28, 2019, Petitioner requested hearing disputing her deductible amount.

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.

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI) (AKA SOCIAL SECURITY BENEFITS)

All Programs

RSDI is a federal benefit administered by the Social Security Administration that is available to retired and disabled individuals, their dependents, and survivors of deceased workers.

Bridges counts the gross benefit amount as unearned income.

Exceptions:

- Special rules apply when determining MA eligibility for certain former SSI recipients; see BEM 155, 503 Individuals, 157, Early Widow(er)s, and 158, Disabled Adult Children. These special rules do **not** apply to post-eligibility patient-pay amount calculations in BEM 546.
- Exclude Medicare premium refunds as income and as assets. Refunds are made because there is a delay of about 120 days between when Medical Services Administration initiates Medicare buy-in and an

individual's benefit check changes; see Bridges Administrative Manual (BAM) 810.

- The Social Security Administration authorizes qualified organizations to deduct a fee for acting as a representative payee. Exclude the fee withheld by an authorized organization.
- See BEM 500, Returned Benefits.
- See BEM 400, Retroactive RSDI and SSI Exclusion.

Medicaid Only

Note: Countable RSDI for fiscal group members is the gross amount for the previous December when the month being tested is January, February, or March. Federal law requires the cost-of-living (COLA) increase received in January be disregarded for these three months. For all other months countable RSDI is the gross amount for the month being tested.

Special budgeting rules apply when determining eligibility for MAGI Medicaid.

- All RSDI income is countable to tax-filers and adults not claimed as dependents.
- A child/tax-dependent's RSDI is countable only if that child or tax-dependent is required to file taxes.
- If a child or tax-dependent meets an exception outlined in BEM 211 then all their RSDI income is countable to them even if they are not required to file taxes.

Example: A child is claimed by their grandparent. Because they are claimed by someone other than a parent or spouse use not tax-filer rules to determine their household. Any RSDI income they receive is countable.

- **Note:** The RSDI budgetable income worksheet is no longer valid in determining how much RSDI income may be countable to an applicant. BEM 503 (October 2018)

In this case, Petitioner and her husband receive \$ [REDACTED] in RSDI income. Based on Department budgeting following deductions and exclusions, Petitioner has total countable income of \$ [REDACTED]. After subtracting the \$ [REDACTED] protected income limit, the

remaining deductible is \$ [REDACTED] This deductible amount was consistent with Department policy and was proper and correct. BEM 545


In addition, Petitioner's request for hearing filed on January 23, 2019, was not within 90 days of the case action which was effective August 1, 2018 and could have been dismissed as being untimely. BAM 600

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 Petitioner's MA benefit and deductible amount.

DECISION AND ORDER

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

AM/nr



Aaron McClintic
Administrative Law Judge
for Robert Gordon, 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

Deborah Little
5131 Grand River Ave.
Detroit, MI
48208

Wayne 49 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI
[REDACTED]