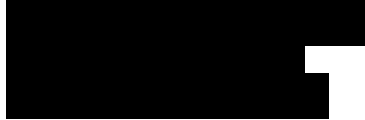




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 30, 2017
MAHS Docket No.: 17-012475
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, a telephone hearing was held on November 15, 2017, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Susan Engel, Hearing Facilitator.

ISSUES

1. Did the Department properly determine Petitioner's Medical Assistance (MA) Medicaid eligibility?
2. Did the Department properly determine Petitioner's MA Medicare Savings Program (MSP) 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 was an ongoing full-coverage MA recipient under the Ad-Care program and MSP program.
2. On August 28, 2017, Petitioner submitted a redetermination (Exhibit B).
3. Petitioner had income in the form of Retirement, Survivors, and Disability Insurance (RSDI) benefits in the monthly amount of \$1,135 (Exhibit D). Petitioner also received a monthly pension payment in the amount of \$550 (Exhibit E).
4. Petitioner was married and was not the caretaker of any minor children.

5. Petitioner's wife had income from employment (Exhibit E).
6. Petitioner lived in ██████ County.
7. On August 29, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that he was eligible for MA benefits subject to a monthly deductible of \$1,652 and that he was no longer eligible for MSP benefits effective October 1, 2017, ongoing (Exhibit A).
8. On September 11, 2017, Petitioner submitted a request for hearing disputing 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, Petitioner submitted a hearing request to dispute the Department's decision regarding his MSP benefits, the Department's determination he was no longer eligible for Ad-Care and the amount of his deductible.

As a disabled and/or aged individual, Petitioner was eligible to receive MA benefits through AD-Care. Ad-Care is a Supplemental Security Income (SSI)-related full-coverage MA program. BEM 163 (July 2017), p. 1. It was not disputed that Petitioner had unearned income in the form of RSDI benefits in the amount of \$1,135 per month and retirement benefits in the amount of \$550 per month. Petitioner's wife also had income from employment. As Petitioner is married, per policy, his fiscal group size for SSI-related MA benefits is two. BEM 211 (January 2016), p. 8. The Department gives AD-Care budget credits for employment income, guardianship and/or conservator expenses and cost of living adjustments (COLA) (for January through March only). Petitioner did not allege any such factors were applicable. Income eligibility for AD-Care exists when countable income does not exceed the income limit for the program. BEM 163 (July 2017), p. 2. The income limit for AD-Care for a two-person MA group is \$1,373.33. RFT 242 (April 2017), p. 1. Because Petitioner's monthly household income exceeds \$1,373.33, the Department properly determined Petitioner to be ineligible for MA benefits under AD-Care.

The Department determined Petitioner was eligible to receive MA benefits subject to monthly deductible of \$1,652 under the G2S program. The deductible is in the amount that the client's net income (less any allowable needs deductions) exceeds the applicable Group 2 MA protected income levels (PIL); the PIL is based on the client's MA fiscal group size and the county in which she resides. BEM 105, p. 1; BEM 166 (April 2017), pp. 1-2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. The monthly PIL for a client in Petitioner's position, with an MA fiscal group size of two living in ██████████ County, is \$516 per month. RFT 200, p. 2; RFT 240, p. 1. Thus, if Petitioner's monthly net income (less allowable needs deductions) is in excess of \$516, he is eligible for MA assistance under the deductible program, with the deductible equal to the amount that his monthly net income, less allowable deductions, exceeds \$516. BEM 545 (January 2017), pp. 2-3.

The Department testified it calculated Petitioner's unearned income to be \$1,685, which consisted of Petitioner's RSDI and retirement benefits. The Department also presented pay statements from Petitioner's wife's income from employment (Exhibit G). The Department testified it used the pay statements from July 6, 2017, in the amount of \$256.77; July 13, 2017, in the amount of \$264.15; July 20, 2017, in the amount of \$281.97; and July 27, 2017, in the amount of \$268.65. The Department determined Petitioner's wife's monthly income from employment was \$1,071.54.

The Department did not provide a MA G2S budget showing the calculation of Petitioner's deductible. The Department was unable to provide testimony as to exactly what it considered when determining Petitioner's deductible, other than the household income. In the absence of such evidence, the Department failed to establish that it properly calculated Petitioner's MA deductible.

MSP are SSI-related MA categories. There are three MSP categories: Qualified Medicare Beneficiaries (QMB); Specified Low-Income Medicare Beneficiaries (SLMB); and Additional Low Income Beneficiaries (ALMB). BEM 165 (October 2016), p. 1. QMB is a full coverage MSP that pays: Medicare premiums (Medicare Part B premiums and Part A premiums for those few people who have them); Medicare coinsurances; and Medicare deductibles. SLMB pays Medicare Part B premiums and ALMB pays Medicare Part B premiums provided funding is available. BEM 165, pp. 1-2. Income eligibility for MSP benefits exists when net income is within the limits in RFT 242 or 247. The Department is to determine countable income according to the SSI-related MA policies in BEM 500 and 530, except as otherwise explained in BEM 165. RFT 242, pp. 1-2; BEM 165, pp. 7-8.

The Department testified that based on Petitioner's household income, he was not eligible for MSP benefits under any of the three categories. Effective April 1, 2017, for QMB, the monthly income limit for a group size of two is \$1,373.33, which is 100 percent of the Federal Poverty Level, plus the \$20 disregard. For SLMB the monthly income limit for Petitioner's group size of two is \$1,644, which is 120 percent of the Federal Poverty Level, plus the \$20 disregard. For ALMB, the monthly income limit for Petitioner's group size of two is \$1,847, which is 135 percent of the Federal Poverty Level, plus the \$20 disregard. RFT 242 (April 2017), pp. 1-2.

The Department presented a MA MSP budget to establish Petitioner was not eligible for MSP benefits. As stated above, Petitioner's unearned income was calculated to be \$1,685 and his wife's income from employment was \$1,071. Countable budget expenses include those for guardianship, conservator, and cost of living adjustments (for January through March only). None of those expenses were applicable to Petitioner. The Department properly subtracted the \$20 unearned income general exclusion. BEM 541 (April 2017), p. 3. The Department also properly applied the \$65 plus ½ of the fiscal group's remaining earnings disregard. BEM 541, p. 3. The Department properly determined Petitioner's countable income was \$2,168. The highest income limit for any MSP category for a group size of two is \$1,847. Therefore, the Department properly determined Petitioner was not eligible for MSP benefits.

DECISION AND ORDER

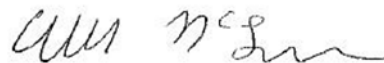
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with policy when it determined Petitioner was not eligible for MSP benefits. The Department failed to establish that it acted in accordance with Department policy when it determined Petitioner's MA deductible amount.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's MSP MA benefits and **REVERSED IN PART** with respect to Petitioner's MA deductible amount.

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 as of October 1, 2017, ongoing;
2. Provide Petitioner with MA coverage he is eligible to receive for October 1, 2017, ongoing; and
3. Notify Petitioner of its MA decision in writing.

EM/



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

DHHS

MDHHS-Saginaw-Hearings

Petitioner



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