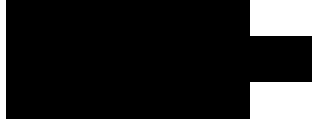




RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: December 15, 2017  
MAHS Docket No.: 17-014548  
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 December 13, 2017, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Cheryl Watkins, Assistance Payments Supervisor, and Tiara Woody, Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioner's co-pay amount and/or the amount of contributions under the Healthy Michigan Plan (HMP)?

**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 recipient of MA benefits under HMP.
2. Petitioner had income from employment. Based on his income, Petitioner was determined to be responsible for a monthly contribution towards the cost of his health care coverage.
3. On June 13, 2017, Petitioner received a MI Health Account Statement stating he owed \$78 in contributions (Exhibit 1, p. 5).
4. On September 11, 2017, Petitioner received a MI Health Account Statement indicating he did not have any current contribution amounts owed. The statement

also indicates that Petitioner was not being charged a contribution, because he had met his maximum cost sharing limit (Exhibit 1, p. 1).

5. On October 31, 2017, Petitioner submitted a request for hearing disputing the amount of his contribution.

### **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 the present case, Petitioner requested a hearing to dispute the monthly cost-sharing obligations or contributions assessed under his HMP case. Petitioner presented a MI Health Account Statement from June 13, 2017, showing he was subject to a \$78 contribution amount. Petitioner also submitted a MI Health Account Statement from September 11, 2017, showing he did not have a contribution amount. However, the statement clearly states that Petitioner was not being charged a monthly contribution amount, because he had met his yearly cost sharing limit.

Pursuant to 42 CFR 431.201, MA applicants and beneficiaries have a right to a Medicaid hearing as a result of an action, which is defined as a reduction, suspension, termination or denial of Medicaid eligibility or covered service. 42 CFR 438.400(a)(1) provides that a State plan such as Medicaid in this case, is required to “provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly.” Medicaid managed care organizations (MCOs) which service HMP beneficiaries are required to “establish internal grievance procedures under which Medicaid enrollees, or providers acting on their behalf, may challenge the denial of coverage of, or payment for, medical assistance.” 42 CFR 438.400(a)(3).

Additionally, an MCO must give an HMP beneficiary timely and adequate written notice of an adverse benefit determination. An adverse benefit determination can include “[t]he denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities.” 42 CFR 438.400(b)(7); 42 CFR 438.404 (a). The adverse benefit

determination notice must explain: the adverse benefit determination the MCO has made or intends to make; the reasons for the determination; and the enrollee's right to request an appeal of the MCO's adverse benefit determination, including information on exhausting the MCO's one level appeal (described at 42 CFR 438.402(b)) and the right to request a State fair hearing consistent with 42 CFR 438.402(c). See 42 CFR 438.404(b)(1)-(6). The MCO must timely respond to a beneficiary's appeal of an adverse benefit determination and resolve each appeal by providing a written notice of resolution which includes the results of the resolution process and the right to request a State fair hearing. 42 CFR 438.408(a), (b)(1)-(2), (d), and (e). Generally, an enrollee may request a State fair hearing only after receiving the notice of resolution that the MCO is upholding the adverse benefit determination and exhausting the MCO appeals process; however, if the MCO fails to adhere to the notice and timing requirements in 42 CFR 438.408, the HMP enrollee is deemed to have exhausted the MCO appeals process and the enrollee may initiate a State fair hearing. 42 CFR 438.408(f)(1)(i).

At the hearing, Petitioner denied receiving any notices to appeal his cost-sharing obligation from his MCO. Petitioner testified that he did not receive an Adverse Benefit Determination or a Notice of Resolution and stated that the only option he was provided with was to contact the 1-800 Help Line and/or the Department. Additionally, the documentation provided by Petitioner indicates the only options if there is a belief there is a mistake is to contact a 1-800 Help Line and/or the Department (Exhibit 1, p. 4, reverse side). There is no information regarding an internal appeal process within the MCO provided on Petitioner's statements. The evidence established that Petitioner is deemed to have exhausted the MCO appeals process and is entitled to a State fair hearing regarding the amount of his cost-sharing obligations, which will be addressed below.

It was undisputed that Petitioner was an ongoing recipient of MA benefits under the Healthy Michigan Plan (HMP) category. The HMP has beneficiary cost-sharing obligations which can include copays and additional monthly contributions based on a beneficiary's income level. HMP managed care members are required to satisfy cost-sharing contributions through a MI Health Account. The cost sharing requirements will be monitored through the MI Health Account by the health plan. These requirements begin after the beneficiary has been enrolled in a health plan for six months. BEM 137, pp. 1-2.

Additionally, HMP beneficiaries at 100% to 133% of the FPL are required to pay a monthly contribution into a MI Health Account. Michigan Department of Community Health (DCH) – Medical Services Administration (MSA) Bulletin No. MSA 14-11, February 27, 2017, p. 4. Available at [http://www.michigan.gov/documents/mdch/blank\\_page\\_448984\\_7.pdf](http://www.michigan.gov/documents/mdch/blank_page_448984_7.pdf). The contribution will be based on 2% of the HMP beneficiary's annual income. MSA Bulletin No. 14-11, p. 4.

At the hearing, the Department testified that Petitioner is not subject to a "deductible." The Department presented Petitioner's Eligibility Summary which shows for the period of August 2016 through October 2017, Petitioner was not subject to a "deductible."

While that information is accurate, a deductible for MA purposes is different than a contribution for HMP purposes. The Department did not present any evidence to show Petitioner was not subject to a contribution amount. Petitioner submitted two MI Health Account Statements which clearly shows he has had an HMP cost-sharing obligation at least since June 1, 2017.

The Department was unable to provide any information as to Petitioner's annual or monthly MAGI income amount or how it was calculated. The Department was also unable to provide an explanation as to how Petitioner's cost-sharing contributions were determined. As such the Department failed to establish that it properly calculated Petitioner's monthly cost-sharing contributions under HMP.

### **DECISION AND ORDER**

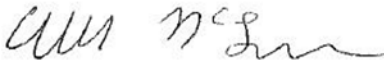
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to establish that it acted in accordance with Department policy when it determined the amount of Petitioner's monthly cost-sharing contributions under the HMP.

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 and recalculate Petitioner's HMP cost-sharing obligation/contributions effective June 1, 2017, ongoing;
2. After recalculating the HMP cost-sharing obligation/contributions, adjust Petitioner's MI Health Account to reflect the correct contribution amount and to the extent required by policy, provide Petitioner with retroactive and/or supplemental benefits; and
3. Notify Petitioner in writing of any adjustments made to his MI Health Account.

EM/

  
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**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-Washtenaw-Hearings

**Petitioner**



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M Best  
EQAD  
E McLemore  
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