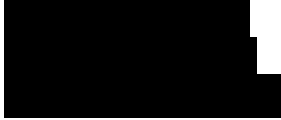




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: February 25, 2019
MAHS Docket No.: 18-014024
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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, telephone hearing was held on February 14, 2019, from Lansing, Michigan. The Petitioner was represented by his Power of Attorney, [REDACTED]. Petitioner is in a nursing home in long term care. The Department of Health and Human Services (Department or Respondent) was represented by Barbara Schram, Family Independence Manager.

Respondent's Exhibit A-H (pages 1-18) were admitted as evidence.

ISSUE

Did the Department properly cancel Petitioner's Extended Care and Waiver Medical Assistance and determine that Petitioner had a deductible spend-down?

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 has been active on Medical Assistance since May 1, 2014.
2. On August 14, 2018, a medical expense of \$7,800.00 for inpatient hospitalization/nursing care was entered in the Department BRIDGES computer system with an incurred date of February 4, 2014. (Department Exhibit A)
3. This expense was incorrectly entered as an ongoing liability of \$7,800.00 per month.

4. This error cause Petitioner to be eligible for full Medical Assistance (Medicaid) for the period of May 1, 2014, through July 31, 2018. Based on Medical Assistance eligibility Petitioner was enrolled in the Waiver Program.
5. On June 25, 2018, Petitioner submitted a DHS-1010 Redetermination, for the annual review of this Medicaid eligibility.
6. During the processing of the review, the medical expense data entry error was discovered and corrected.
7. Due to the correction of the error, Petitioner no longer met the criteria to be eligible for full Medical Assistance.
8. On November 8, 2018, A DHS-1606, Health Care Coverage Determination Notice was sent to Petitioner to advise him that he was Medical Assistance eligible with a monthly deductible of \$1,545.00 (June 1, 2018-August 31, 2018) and an ongoing monthly deductible of \$1,797.00 (September 1, 2018-Ongoing).
9. On December 21, 2018, the Department received a Request for Hearing to contest the deductible and cancellation of full Medical Assistance Program eligibility.
10. On January 14, 2019 the Michigan Administrative Hearing System received the Hearing Summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Michigan provides MA eligible clients under two general classifications: group 1 and group 2 MA. Claimant qualified under the group 2 MA classification which consists of clients whose eligibility results from the state designating certain types of individuals as medically needy. PEM 105. In order to qualify for group 2 MA, a medically needy client must have income as equal to or less than the basic protected monthly income level.

Department policy sets forth a method for determining the basic maintenance level by considering:

1. Protected income level.
2. The amount deferred to dependent.
3. Health insurance premiums
4. Remedial services if determining the eligibility for claimants in Adult Care Homes.

If Petitioner's income exceeds the protect income level, the excess income must be used to pay medical expenses before group 2 MA coverage can begin. This process is known as a spend-down. The policy requires the Department to count and budget all income received that is not specifically excluded. There are 3 main types of income: countable earned, countable unearned, and excluded. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income is any income that is not earned. The amount of income counted maybe more than the amount a person actually receives, because it is the amount before deductions are taken including the deductions for taxes and garnishments. The amount before any deductions are taken is called a gross amount. BEM, item 500, p. 1.

Federal regulations at 42 CFR 435.831 provides standards for the determination of the MA monthly protected income level. The department must be in compliance with the program reference manual, tables, charts, schedules, table (RFT) 240-1.

Deductible spend-down is a process which allows the customer's excess income to be eligible for group 2 MA if sufficient allowable medical expenses are incurred. BEM, item 545, p. 1. Meeting the deductible spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down amount for the calendar month tested. BEM, item 545, p. 9. The group must report expenses on the last day of the third month following the month it wants MA coverage for. BEM, Item 130 explains verification and timeliness standards. BEM, Item 545, p. 9.

Deductible spend-down is a process which allows the customer's excess income to be eligible for group 2 MA if sufficient allowable medical expenses are incurred. BEM, item 545, p. 1. Meeting the deductible spend-down means reporting and verifying allowable medical expenses that equal or exceed the spend-down amount for the calendar month

tested. BEM, item 545, p. 9. The group must report expenses on the last day of the third month following the month it wants MA coverage for. BEM, Item 130 explains verification and timeliness standards. BEM, Item 545, p. 9.

In the instant case, the Department calculated Petitioner's income based upon receipt of unearned income from RSDI income and pension income. Petitioner's gross monthly income was determined to be \$2,250.00. (Petitioner receives \$1,815.00 RSDI income + \$466.00 in pension = \$2,281.00 in total monthly income).

Per RFT 248, the SSI payment rate for 2018 was \$750.00 per month. Petitioner's income cannot exceed 300% of the poverty level. The income limit for Extended-Care is \$2,250.00 per month for 2018. Petitioner's income is \$31.00 in excess of the Extended-Care Medical Assistance level and he must have his Medical Assistance eligibility determined under another category.

Petitioner receives \$2,281.00 in income. He was given a \$385.17 insurance premium for a total countable income of \$1,895.83. The protected income limit for a one-person household in Petitioner's circumstances is \$350.00; $\$1,895.83 - \$350.00 = \$1,545.00$ which left Petitioner with a deductible of \$1,545.00 per month in Medicaid deductible spend down.


Petitioner's Representative's allegation of the spend-down is too expensive and unfair because of other expenses is a compelling equitable argument to be excused for the Department's program policy requirements. This Administrative Law Judge has no equity powers. A review of Petitioner's case reveals that the Department budgeted the correct amount of income earned by Petitioner. Petitioner's protected income level and amounts are set by Medicaid policy and cannot be changed by the Department or this Administrative Law Judge. The Department's determination that Petitioner has deductible spend-down in the amount of \$1,545.00 per month is correct based upon the information contained in the file.

Therefore, this Administrative Law Judge finds the Department has established by the necessary competent, material and substantial evidence on the record that it acted in accordance with department policy when determined Petitioner has excess income for purposes of Medical Assistance benefit eligibility and when it determined that Petitioner has a monthly \$1545.00 deductible spend-down that Petitioner must meet in order to qualify for Medicaid for any medical expenses. The Department's action must be upheld.

DECISION AND ORDER

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

LL/hb



Landis Lain
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

Barbara Schram - 4
711 West Chisholm St.
Alpena, MI 49707

Alpena County, DHHS

BSC1 via electronic mail

D. Smith via electronic mail

EQADHShearings via electronic mail

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]