

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

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MAHS Reg. No.: 15-019985
Issue No.: 2007
Agency Case No.: ██████████
Hearing Date: January 11, 2016
County: Wayne-District 82
(Adult Medical)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner's spouse'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; 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 January 11, 2016, from Detroit, Michigan. Petitioner was represented by attorney ██████████. Petitioner's husband, ██████████, appeared as witness for Petitioner and participated via telephone. The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Petitioner's Medical Assistance (MA) patient pay amount (PPA)?

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 resides in a long-term care facility.
2. On February 27, 2015, Petitioner filed an MA application seeking long-term care benefits.
3. On September 7, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice approving the application for MA eligibility subject to a monthly PPA.

4. On October 26, 2015, counsel filed a request for hearing disputing the Department's calculation of Petitioner's PPA (Exhibits B and E).

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.

A PPA is the monthly amount of a person's income which Medicaid considers available for meeting the cost of LTC services. Medicaid reduces its payment to the LTC facility by the PPA. Bridges Policy Glossary (BPG) (July 2014), p. 47; see also BEM 546 (January 2015), p. 1. The PPA is equal to total income minus total need. BEM 546, p. 1. Total income is the client's countable unearned income plus her remaining earned income. BEM 546, pp. 1, 2. Total need is the sum of the following when allowed: patient allowance, home maintenance disregard, community spouse income allowance, family allowance, children's allowance, health insurance premiums and guardianship/conservator expenses. BEM 546, p. 1.

At issue in this case is whether the Department improperly excluded a \$245.71 health insurance premium as an allowable need in the calculation of Petitioner's PPA. The cost of health insurance premiums (including vision and dental insurance) is an allowable need item in calculating a client's PPA if paid by the L/H patient (the Medicaid client in an LTC facility), regardless of who the coverage is for. BEM 546, p. 8. Health insurance premiums paid by someone other than the L/H patient are **not** an allowable need item. BEM 546, p. 8. If there is a community spouse and the community spouse pays his or her own premium, the premium is included in the community spouse income allowance. BEM 546, p. 8. If questionable, the Department is required to verify who pays the premium. BEM 546, p. 8.

In this case, the verifications presented to the Department with Petitioner's MA application included an invoice for a \$245.71 health insurance premium payable to [REDACTED] for [REDACTED] C [REDACTED] plan (Exhibit C). Petitioner's counsel argued that this expense should have been included as an

allowable need in the calculation of Petitioner's PPA. Although there was some discussion on the record concerning whether Petitioner (the L/H patient in this case) or her husband (the community spouse) was the insured party of the policy described on the invoice, under Department policy, that issue is irrelevant for determination of whether the expense is an allowable health insurance premium need. For purposes of being an allowable need, the issue is whether Petitioner paid the expense.

In this case, the Department testified that it relied on the fact that the invoice was sent to Petitioner's husband to conclude that the expense was paid by Petitioner's husband, not Petitioner. No documentary evidence was presented at the hearing to dispute the Department's position and establish that the expense was actually paid by Petitioner, and Petitioner's husband's testimony failed to clearly establish that Petitioner was the owner (or co-owner) of the account from which the [REDACTED] policy was paid. Counsel argued that the expense was paid during the presumptive eligibility period, during which time assets were being transferred between Petitioner and her husband in order to ensure that Petitioner remained asset eligible for MA at the end of the presumed asset eligible period. However, in the absence of any evidence that the [REDACTED] premium was paid from Petitioner's bank account or an account jointly held by Petitioner and her husband, the Department acted in accordance with Department policy when it excluded the \$245.71 health insurance premium in the calculation of Petitioner's PPA.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/25/2016**

Date Mailed: **1/25/2016**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days

of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]