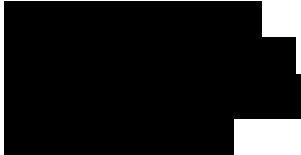




RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR



Date Mailed: April 29, 2016
MAHS Docket No.: 16-001465
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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; 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 31, 2016, from Lansing, Michigan. The Petitioner was represented by her daughter and Authorized Representative [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] AP worker. Department exhibit 1 was admitted.

ISSUE

Did the Department properly determine Petitioner's Medicaid benefits?

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 entered a long term care facility on December 3, 2015.
2. On December 8, 2015, the Department issued a Health Care Coverage Determination determining that Petitioner's patient pay amount was \$ [REDACTED] per month effective January 1, 2016.
3. On February 4, 2015, Petitioner requested hearing checking the box for MA and Amount and stating "Monthly Patient Pay is almost entire social security check and her social security is needed for her bills while she is in medicare rehab."

4. Petitioner did not formally request the home maintenance disregard as outlined in BEM 456.

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.

HOME MAINTENANCE DISREGARD

Medicaid beneficiaries who will be residents of a long term care facility for less than six L/H months may request a disregard to divert income for maintenance of their home for a maximum of six months.

Beneficiaries who have been or are expected to remain in long term care for longer than six months do not meet the criteria for this disregard.

The PPA will be reduced when all of the following are true:

- A physician has certified the beneficiary is medically likely to return home in less than six months from the date of admission.
- The request is being made for an individual who is a current Medicaid beneficiary and responsible for a patient pay amount.
- The beneficiary is a current resident of a long term care facility.
- The beneficiary has a legal obligation to pay housing expenses and has provided verification of the expenses. The housing expenses must be in the beneficiary's name. A foreclosure, eviction or bankruptcy proceedings must not have begun.
- The home is not occupied by a community spouse or children eligible for a family allowance income deduction.

The written or verbal request is being made by the beneficiary or an individual authorized to act on behalf of the Medicaid beneficiary.

The effective date of the disregard is the first day of Medicaid eligibility as a nursing facility resident. The disregard is for a maximum of six months but may be granted multiple times if the total months do not exceed six months. BEM 546

In this case, Petitioner's Authorized Representative raised issues with regard to whether Petitioner may be entitled to a home maintenance disregard. Petitioner has not requested the home maintenance disregard as outlined in BEM 546, in addition no statement from a physician stating that Petitioner was likely to return home in fewer than 6 months was contained in the record. The patient pay amount of \$ [REDACTED] is consistent with Department policy. BEM 546

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 patient pay amount.

DECISION AND ORDER

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

AM/las



Aaron McClintic

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

[REDACTED]

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]