



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: April 26, 2016
MAHS Docket No.: 16-002969
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on April 21, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included his daughter and authorized hearing representative [REDACTED]. [REDACTED] (Family Independence Manager) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Long Term Care Worker).

ISSUE

Did the Department of Health and Human Services (Department) properly determine the Petitioner's level of Medical Assistance (MA) 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. The Petitioner is an ongoing Medical Assistance (MA) recipient receiving Long Term Care (LTC) benefits.
2. The Petitioner's case was scheduled for a review of his eligibility in January of 2016.
3. On February 1, 2016, the Department received a completed Medicaid Application (DHS-4574-Redetermine). Exhibit A, pp 1 – 8.
4. On February 1, 2016, the Petitioner reported receiving Veterans Administration benefits in the gross monthly amount of \$ [REDACTED] Exhibit A, p 6.

5. On February 18, 2016, the Department received a benefit summary letter from the Department of Veterans Affairs showing a current monthly award of \$ [REDACTED] Exhibit A, p 8.
6. Department records indicate that the Petitioner's Veterans Affairs (VA) benefits were previously verified by client statement. Exhibit A, pp 10 – 11.
7. The Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] Exhibit A, p 6.
8. The Petitioner receives monthly pension income in the gross monthly amount of \$ [REDACTED] Exhibit A, p 6.
9. The Petitioner has ongoing medical expenses in the monthly amount of \$ [REDACTED] and he meets his monthly deductible for Medical Assistance (MA) benefits. Exhibit A, p 13.
10. On February 19, 2016, the Department notified the Petitioner that he was eligible for Long Term Care (LTC) benefits with a \$ [REDACTED] patient pay amount. Exhibit A, p 15.
11. On February 26, 2016, the Department received the Petitioner's request for a hearing protesting the level of Medical Assistance (MA) benefits he has been approved for.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits

(RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2016).

The Department counts the gross amount of the pension or compensation as unearned income but excludes any portion of a payment resulting from an Aid and Attendance or Housebound allowance. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (October 1, 2015), p 36.

The Petitioner was an ongoing MA and LTC recipient when the Department reviewed his eligibility to receive continuing benefits. On February 1, 2016, the Department received a completed Medicaid Application (DHS-4574-Redetermine). On this form, the Petitioner reported a monthly Veterans Affairs benefits of \$ [REDACTED] Retirement, Survivors, and Disability Insurance (RSDI) benefits of \$ [REDACTED] and pension income of \$ [REDACTED]. On February 19, 2016, the Department received a benefit summary letter from the Department of Veterans Affairs showing a current monthly award of \$ [REDACTED]. Based on the income reported by the Petitioner, the Department determined that he was eligible for continuing LTC benefits but with an increased patient pay amount (PPA) of \$ [REDACTED].

The Petitioner's representative argued that the Department failed to exclude VA benefit income that is for aid and attendance.

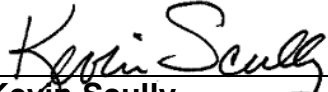
While the Department may have excluded VA benefits designated for care and attendance in the past without verification, the evidence does not support a finding that the Petitioner provided the Department with sufficient verification of how his benefits from the Department of Veterans Affairs are characterized. Lacking more specific verification of his income, the Department processed the Petitioner's redetermination information using the best information available, which resulted in an increase to his monthly patient pay amount (PPA).

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 the Petitioner's eligibility for Medical Assistance (MA).

DECISION AND ORDER

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

KS/las



Kevin Scully
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]

Petitioner

[REDACTED]