



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: September 27, 2016
MAHS Docket No.: 16-011291
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 September 20, 2016, from Lansing, Michigan. The Petitioner was represented by his brother [REDACTED] as his Authorized Hearing Representative and Petitioner testified on his own behalf. The Department was represented by [REDACTED] (LTC Eligibility Specialist), and [REDACTED] (Family Independence Manager).

ISSUE

Did the Department of Health and Human Services (Department) properly determine Petitioner's eligibility for Medical Assistance (MA)?

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 is an ongoing Medical Assistance (MA) recipient and is approved for Long Term Care (LTC).
2. The Department's representative testified that there are no records that verification that Petitioner submitted verification that he has an obligation to pay health insurance premiums.
3. On August 16, 2016, the Department sent Petitioner a Verification Checklist (DHS-3503) requesting verification of the health insurance premium expense.

4. On August 3, 2016, the Department received Petitioner's request for a hearing protesting the Department's failure to include all expenses in the determination of the monthly patient pay amount (PPA).

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.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount within 10 days of receiving the first payment reflecting the change. Changes that must be reported include health or hospital coverage and premiums. Department of Human Services Bridges Assistance Manual (BAM) 105 (January 1, 2015), pp 1-20.

Include as a need item the cost of any health insurance premiums (including vision and dental insurance) the L/H patient pays for another member of their fiscal group, regardless of who the coverage is for. This includes Medicare premiums that a client pays. The Department will not include premiums paid by someone other than the L/H patient as a need item. Department of Health and Human Services Bridges Eligibility Manual (BEM) 546 (July 1, 2016), p 8.

Health Insurance premiums must be verified by providing the Department with a copy of the insurance policy, a receipt or bill for premium, or through contact with the insurer. BEM 546, p 12.

In this case, Petitioner is an ongoing MA recipient and has been approved for Long Term Care benefits with a patient pay amount (PPA). It was not disputed that the Department has been determining Petitioner's monthly patient pay amount without applying a credit for health insurance premium.

The Department's representative testified that the Department has not included the health care premiums in the determination of Petitioner's PPA because these expenses have not been verified.

However, upon further review of BEM 546, the Department is not permitted to apply expenses for health care premiums that are paid by a family member other than the community spouse.

In this case, the record evidence does not support a finding the Department had verification of the allowable expenses, and therefore could not credit Petitioner's patient pay amount. If Petitioner provides verification that he has this expenses, his patient pay amount may change in the future.

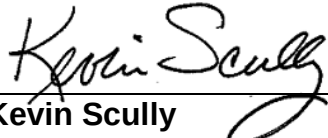
A policy exception is needed based on unique and rare circumstances in a specific case to avoid extreme and unusual hardship on the client. Requests for a policy exception for a situation not covered by published policy may be initiated by any staff member but must be in writing and go through regular administrative channels. Department of Health and Human Services Bridges Eligibility Manual (BEM) 100 (July 1, 2015), p 9.

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 (PPA) as of Petitioner's request for a hearing.

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]