



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: May 4, 2017
MAHS Docket No.: 17-003774
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 April 26, 2017, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] Hearing Facilitator and [REDACTED] [REDACTED] Long Term Care Specialist.

ISSUE

Did the Department properly determine that the Petitioner was not eligible for the home maintenance disregard because she was not a current resident of a nursing home when she applied?

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 was a recipient of Medicaid (MA).
2. On January 7, 2017, the Petitioner entered a nursing as the result of knee replacement surgery for rehabilitation.
3. The Petitioner was able to leave the nursing home on February 14, 2017.
4. The Petitioner receives \$ [REDACTED] in Social Security RSDI benefits. Department Exhibit 1, pgs. 3-5.

5. On January 11, 2017, the Department sent the Petitioner a Health Care Coverage Determination Notice, DHS 1606 that stated that she had an \$ [REDACTED] a month patient pay amount effective February 1, 2017. Department Exhibit 1, pgs. 8-10.
6. On March 9, 2017, the Department received a hearing request from the Petitioner, contesting the Department's negative action.

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.

In this case, the Petitioner was a recipient of Medicaid (MA). On January 7, 2017, the Petitioner entered a nursing as the result of knee replacement surgery for rehabilitation. The Petitioner was able to leave the nursing home on February 14, 2017. The Petitioner receives \$ [REDACTED] in Social Security RSDI benefits. Department Exhibit 1, pgs. 3-5. On January 11, 2017, the Department sent the Petitioner a Health Care Coverage Determination Notice, DHS 1606 that stated that she had an \$ [REDACTED] a month patient pay amount effective February 1, 2017. Department Exhibit 1, pgs. 8-10. On March 9, 2017, the Department received a hearing request from the Petitioner, contesting the Department's negative action. BAM 402. BEM 500, 503, 164, 546, and 547.

BEM 546, page 1

DEPARTMENT POLICY

MA Only

Use this item to determine post-eligibility patient-pay amounts. A post-eligibility patient-pay amount is the L/H patient's share of the cost of LTC or hospital services. First determine MA eligibility. Then determine the post-eligibility patient-pay amount when MA eligibility exists for **L/H patients** eligible under:

- A U19 Healthy Kids category.

- A Group 2 (G2U, G2C) category.
- An SSI-related Group 1 or 2 category **except**:
 - QDWI.
 - Only Medicare Savings Program (with **no** other MA coverage).

MA income eligibility and post-eligibility patient-pay amount determinations are **not** the same. Countable income and deductions from income often differ. Medical expenses, such as the cost of LTC, are never used to determine a post-eligibility patient-pay amount. Do **not** recalculate a patient-pay amount for the month of death.

PATIENT-PAY AMOUNT

The post-eligibility patient-pay amount is total income minus total need.

Total income is the client's countable unearned income plus his remaining earned income; see Countable Income in this item.

Total need is the sum of the following when allowed by later sections of this item:

- Patient allowance.
- Home maintenance disregard.
- Community spouse income allowance.
- Family allowance.
- Children's allowance.
- Health insurance premiums.
- Guardianship/conservator expenses.

BEM 546, pages 3-4.

HOME MAINTENAN CE 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.

During the hearing, the Petitioner testified that no one told her that she was eligible for the home maintenance disregard. The Department stated that normally the nursing home informs clients when they enter of their eligibility. The Department policy does not require the Department Caseworker to ask, but specifically states that the MA beneficiary may request a disregard to divert income for maintenance of their home for a maximum of six months and they have to be currently in the nursing home. As a result, the Petitioner is not currently eligible for the home maintenance disregard because she is no longer currently in the nursing home as required by policy.

DECISION AND ORDER

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 that the Petitioner is not eligible for the home maintenance disregard because she was no longer in the nursing home.

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



CF/nr

Carmen G. Fahie
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]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]