



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 21, 2017
MAHS Docket No.: [REDACTED] 17-006603
MAHS Docket No.: [REDACTED] 17-008746
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 42 CFR 438.400 to 438.424; 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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED], her Legal Guardian. The Petitioner also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist, and [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly determine the Petitioner's 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. The Petitioner requested two hearings involving the same issue; and both hearing requests dated [REDACTED], and [REDACTED], were assigned separate MAHS registration numbers. Both hearing requests involved an appeal from the Department [REDACTED], Health Care Coverage Determination Notice imposing a Patient Pay Amount of [REDACTED]. The two hearing requests appeals were consolidated for the hearing held in this case.
2. The Petitioner resides in a Long Term Care Facility (LTC/LH).

3. The Petitioner receives RSDI in the amount of [REDACTED] monthly. The Petitioner has no Medicare Part B Premium as it is paid by the State of Michigan.
4. On [REDACTED], the Department issued a Health Care Coverage Determination Notice imposing a monthly Patient Pay amount of [REDACTED]. Exhibit B
5. The Petitioner requested a hearing on [REDACTED], and [REDACTED], protesting the Department's imposition of the Patient Pay amount.

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 Department imposed a patient pay amount (PPA) of [REDACTED] monthly as the Petitioner's contribution to her care. The Petitioner testified that she is in a long term care facility and does not have any children under 18 in her care, has no spouse and her doctor has not indicated in writing that she will remain in the LTC facility for less than 6 months.

The Department presented a budget to demonstrate how it determined the patient pay amount. The budget was reviewed at the hearing. Exhibit E. The Department policy that governs how the PPA is determined is found in BEM 546 and provides in pertinent part:

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 ...

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 (April 2017, p. 1).

In this case the only need item that the Petitioner qualified for was the [REDACTED] patient allowance. The home maintenance disregard only applies when the patient is scheduled to be in LTC for 6 months or less. See BEM 546, p. 4. The other allowances including Community spouse income, family allowance and children's allowance also are not applicable to Petitioner because she has no children under 18 and no spouse. Finally, the Petitioner's Legal Guardian was just appointed [REDACTED], and thus no guardian expenses were incurred prior to that date. A health insurance premium also is paid by the State of Michigan for Medicare Part B and thus is not eligible for a deductible allowance. (See also Exhibit D).

A review of the budget presented deducting the [REDACTED] patient allowance from the Petitioner's confirmed RSDI income of [REDACTED] results in a patient pay amount of [REDACTED]. Exhibit E

The Petitioner did submit a medical bill, which she is required to pay. BEM 546 provides that these bills are to be considered for possible offset and the Department must submit the bills to the Medical Services Administration. There was no evidence that the bill for services was submitted or whether the required conditions were met. (See BEM 546, p. 10-11, Exhibit C medical bill for [REDACTED]. It appears this bill was included with Petitioner's hearing request and thus could not have been processed by the Department prior to that date, and therefore is not properly before the undersigned. However, the Department must review BEM 546 patient pay offset in that regard, but not having done so is not a matter which can be determined in this case.

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 determine the Patient Pay Amount to be [REDACTED]

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

LF/hw



Lynn M. Ferris
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]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]