



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: March 15, 2018  
MAHS Docket No.: 17-014510  
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; 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 February 7, 2018, from [REDACTED] Michigan. Petitioner was represented by herself, her Power of Attorney (POA), daughter, and Authorized Representative, [REDACTED], and POA and daughter, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist

### **ISSUE**

Did the Department properly determine Petitioner's Medical Assistance (MA) 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. Petitioner is an ongoing recipient of Medical Assistance (MA) benefits in a long term facility and does not have a community spouse.
2. Petitioner was a recipient of MA who received \$ [REDACTED] in Social Security RSDI benefits.

3. On July 3, 2017, the Department caseworker received written verification that Petitioner received \$ [REDACTED] in VA benefits because she was in a nursing home for an aid and attendance allowance. Department Exhibit 1, pgs. 19-21.
4. On August 7, 2017, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated that Petitioner was approved for full coverage for the Medical Savings Program from July 1, 2017, ongoing and for ongoing MA effective August 1, 2017, with a \$ [REDACTED] monthly patient pay. Petitioner was not eligible for Medicare Cost Sharing Program because she has full Medicaid coverage. Department Exhibit 1, pgs. 7-10.
5. On September 8, 2017, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated that Petitioner was approved for ongoing MA with a \$ [REDACTED] monthly patient pay. Department Exhibit 1, pgs. 11-13.
6. On September 15, 2017, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated that Petitioner was approved for ongoing MA with a \$ [REDACTED] monthly patient pay. In addition, further verification was requested of the type of Veteran's Benefits received. Aid and Attendance is not excluded from the Patient Pay Calculation per BEM 503 and 546. Her patient allowance has increased to \$ [REDACTED] due to receipt of VA benefits. Current ppa is total income of \$ [REDACTED] for Social Security RSDI benefits, minus health insurance premiums of \$ [REDACTED] minus patient allowance of \$ [REDACTED] equals ppa of \$ [REDACTED]. Department Exhibit 1, pgs. 14-16.
7. On October 14, 2017, the Department Caseworker sent Petitioner a Health Care Coverage Determination Notice, DHS-1606, that stated that Petitioner was approved for ongoing MA with a \$ [REDACTED] monthly patient pay. Department Exhibit 1, pgs. 22-24.
8. On October 30, 2017, the Department received a hearing request from 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.

BEM 503, pages 40-41.

## **VA Aid and Attendance and Housebound Allowances**

### **All Types of Assistance**

Payments are made to veterans, spouses of disabled veterans, and surviving spouses who are:

- Housebound.
- In regular need of the aid and attendance of another individual.

The payment is included with the pension or compensation payment.

Bridges excludes as income and as an asset the portion of a VA pension or compensation that is the aid and attendance or housebound allowance.

**Note:** Aid and Attendance is NOT excluded from the Patient Pay Calculation; see BEM 546.

BEM 546, pages 1-3.

## **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.

## **COUNTABLE INCOME**

For all persons in this item, determine countable income as follows:

- RSDI, Railroad Retirement and U.S. Civil Service and Federal Employee Retirement System.
- Non-SSI income for SSI recipients

Use countable income per BEM 500, 501, 502, 503, 504 and 530. Deduct Medicare premiums actually withheld by:

- Including the L/H patient's premium along with other health insurance premiums, and
- Subtracting the premium for others (example, the community spouse) from the unearned income.

**Exception:** Do **not** use the following special exclusion policies regarding RSDI. These policies only apply to eligibility, **not** post-eligibility patient-pay amounts. VA Aid and Attendance income is not excluded from the Patient Pay Calculation.

- BEM 155, 503 COUNTABLE RSDI.
- BEM 157, COUNTABLE RSDI.
- BEM 158, COUNTABLE RSDI.
- BEM 503, Countable VA PENSION.

**Note:** The benefits of clients on buy-in increase about three months after buy-in is initiated. Recompute the patient-pay amount when the client's benefits actually change. BAM 810 has information about buy-in.

- **Earned and Other Unearned Income.**

Use BEM 500, 501, 502, 503, 504 and 530. For clients, use FIP- or SSI-related policy as appropriate. Use SSI-related policies for all other persons.

For the **client only**, disregard \$65 + 1/2 of his or her countable earned income. Use RFT 295 to determine the disregard. Earned income minus the disregard is **remaining earned income**.

## **PATIENT ALLOWANCE**

The patient allowance for clients who are in, or are expected to be in, LTC and/or a hospital the entire L/H month is \$60.

**Exception:** The patient allowance for a veteran is \$90 per month.

**Note:** The VA determines who receives the Improved Pension and therefore the \$90 allowance. The VA may give the Improved Pension to a widow or other member of the veteran's family, see exhibit in this item.

Use the appropriate protected income level for one from RFT 240 for clients who enter LTC and/or a hospital but are not expected to remain the entire L/H month.

**Reminder:** The patient-pay amount is not reduced or eliminated in the month the person leaves the facility.

In this case, Petitioner received \$ [REDACTED] in Social Security RSDI benefits and \$ [REDACTED] in VA benefits because she was in a nursing home for an aid and attendance allowance for a total monthly income of \$ [REDACTED] of unearned income. Department Exhibit 1, pgs. 19-21. The Department is required by policy of BEM 503 to count her VA benefits for aid and attendance allowance as a part of her gross monthly income. It does result in her getting an increase in her patient allowance from \$ [REDACTED] to \$ [REDACTED]

The Department Caseworker determined eligibility for MA where Petitioner's ppa amount is \$ [REDACTED] which is the patient allowance of \$ [REDACTED] minus the health insurance premium of \$ [REDACTED] from gross unearned income of \$ [REDACTED] Department Exhibit II, pages a-b. Therefore, the Department has met its burden that Petitioner has a ppa of \$ [REDACTED] that she must meet in order to qualify for MA.

A review of Petitioner's case reveals that the Department budgeted the correct amount of \$ [REDACTED] in unearned income received by Petitioner. Petitioner's "patient allowance" is \$ [REDACTED] and this amount cannot be changed either by the Department or by this Administrative Law Judge.

### **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's ppa was \$ [REDACTED] and her patient allowance was \$ [REDACTED]

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



CF/md

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**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]

**Petitioner**

[Redacted]

**Authorized Hearing Rep.**

[Redacted]