



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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Date Mailed: May 30, 2019  
MOAHR Docket No.: 19-002879  
Agency No.: ██████████  
Petitioner: ██████████

**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 May 2, 2019, from Lansing, Michigan. Petitioner was represented by his daughter ██████████ and his wife ██████████. The Department was represented by Karen King and Daniel Vendzuh.

### **ISSUE**

Did the Department of Health and Human Services (Department) properly determine Petitioner's Patient Pay Amount (PPA) for his Long-Term Care (LTC) 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. On ██████████ ██████████ 2019, the Department received Petitioner's Application For Health Care Coverage Patient of Nursing Facility (DHS-4574). Exhibit A, pp 1-8.
2. The Department determined that Petitioner has countable assets totaling ██████████. Exhibit A, p 8a.
3. The Department determined that Petitioner is responsible for a \$1,259 patient pay amount for January of 2019, and \$1,549 for February of 2019. Exhibit A, pp 9-10.
4. The Department determined that Petitioner's spouse was entitled to a ██████████ community spouse income allowance. Exhibit A, p 11.

5. Petitioner and his spouse are responsible for shelter expenses in the monthly amounts of ██████ for home insurance, ██████ for a mortgage, and ██████ for property taxes. Exhibit A, p 13.
6. Petitioner receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of ██████. Exhibit A, p 14.
7. Petitioner's spouse receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of ██████. Exhibit A, p 14.
8. Petitioner's spouse receives a monthly pension in the gross monthly amount of ██████. Exhibit A, pp 14-15.
9. Petitioner is responsible for monthly Medicare Part B premiums of ██████; his spouse is responsible for monthly Medicare Part B premiums of ██████ and other monthly medical insurance premiums of ██████. Exhibit A, p 16.
10. On March 4, 2019, the Department notified Petitioner that he was eligible for Medical Assistance (MA) with a \$1,259 patient pay amount for January of 2019, and a \$1,549 patient pay amount as of February 1, 2019, and ongoing. Exhibit A, pp 17-19.
11. On March 4, 2019, the Department notified Petitioner that his spouse would receive a ██████ community spouse allowance. Exhibit A, p 22.
12. On March 12, 2019, the Department received Petitioner's request for a hearing protesting the amount of the Patient Pay Amount (PPA). Exhibit A, pp 23-25.

### **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.

A Medicaid client who is hospitalized and/or a long-term care facility (LTC) is a L/H patient. A post-eligibility patient-pay amount is the L/H patient's share of the cost of LTC or hospital services. The post-eligibility patient-pay amount is total income minus total need. Department of Health and Human Services Bridges Eligibility Manual (BEM) 546 (January 1, 2019), p 1.

The L/H patient can divert income to meet the needs of the community spouse. The community spouse income allowance is the maximum amount they can divert, but they can choose to contribute less. Administrative Law Judges can increase the total allowance to divert more income to the community spouse. BEM 546, pp 4-5.

Petitioner reported and verified shelter expenses in the monthly amount of [REDACTED], which includes a mortgage, property taxes, and home insurance. Petitioner testified that there is a second mortgage expenses. The hearing record supports a finding that this expense was not reported on the application form, and verification this expense was not provided to the Department at the time the community spouse allowance was determined.

Petitioner's spouse is receiving the maximum monthly maintenance needs allowance of [REDACTED]. The Department reduced this allowance by the community spouse's monthly income in the monthly amount of [REDACTED] and the community spouse's health insurance premiums in the total monthly amount of [REDACTED], leaving the community spouse with a [REDACTED] community spouse allowance as directed by BEM 546. The Department's determination of income and medical premium expenses was not disputed during the hearing.

Petitioner received RSDI in the gross monthly amount of [REDACTED]. This amount was reduced by his medical premiums, the standard \$60 patient allowance, and the community spousal allowance as directed by BEM 546, leaving him with a \$1,549.11 patient pay amount.

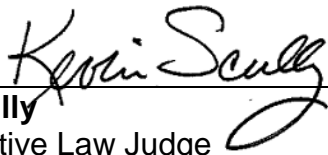
Petitioner and his non-institutionalized spouse did not establish exceptional circumstances justifying a departure from the guidelines followed by the Department establishing income allowances set aside for the community spouse.

Petitioner is eligible for MA benefits and the Department established that it properly considered the needs of the community spouse when determining the level of benefits that Petitioner is eligible for. 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 properly determined Petitioner's patient pay amount and the community spouse allowance in accordance with policy.

**DECISION AND ORDER**

Accordingly, the Department's decision is AFFIRMED.

KS/dh

  
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**Kevin Scully**  
Administrative Law Judge  
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR 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**

Kim Lauterwasser  
230 Huron St.  
Grayling, MI 49738

Crawford County, DHHS

EQAD via electronic mail

D. Smith via electronic mail

**Authorized Hearing Rep.**

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**Petitioner**

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