



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: June 17, 2020
MOAHR Docket No.: 20-001752
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 three-way telephone hearing was held on June 3, 2020.

Petitioner was represented by [REDACTED], POA.

The Department of Health and Human Services (Department) was represented by Ms. Sumption, HF.

Department Exhibit A.28 was offered and admitted into the record.

ISSUE

Did the Department properly calculate Petitioner Long Term Care (LTC) patient pay amount?

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 [REDACTED] 2019, Petitioner was admitted to a LTC nursing facility.
2. On [REDACTED] 2020, Petitioner applied for LTC MA and retro-medicaid.
3. Petitioner receives RSDI totaling \$ [REDACTED] per month, and a monthly pension for \$ [REDACTED]. Petitioner pays Part B Medicare at \$145 per month and has medical expenses from December 2019. Petitioner is eligible for a \$60 per month patient allowance.

4. On February 6, 2020, the Department issued a Medicaid Extended Care notice, informing Petitioner of approval with a \$1,988 patient pay amount.
5. On February 25, 2020, Petitioner filed a hearing request.

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, Petitioner does not dispute the income, or the expenses Petitioner has each month. Rather, Petitioner requests that the alimony payments be allowed on the LTC budget as an expense. As the budget stands, Petitioner has no funds to pay the alimony.

Applicable policy is found in BEM 546. That policy does not allow for alimony as an expense when calculating MA LTC eligibility.

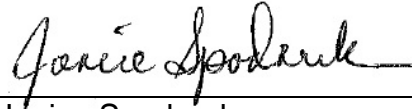
Petitioner offered not, law or policy that would show that the Department erred or that would entitle him to an exception. The undersigned has no authority to deviate from federal and state law, and department policy. Under these facts, the Department patient pay amount must be upheld.

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 calculated Petitioner's patient pay amount, and thus, the Department's calculation must be upheld.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

JS/ml



Janice Spodarek
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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Ottawa County DHHS – Via Electronic Mail

BSC 3 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
MI [REDACTED]

Authorized Hearing Rep.

[REDACTED]
MI [REDACTED]