



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 16, 2020
MOAHR Docket No.: 20-003990
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 telephone hearing was held on July 15, 2020.

Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Michelle Morley, APS.

Department Exhibit A.14 was offered and admitted into the record.

ISSUE

Did the Department properly calculate Petitioner's Medicaid (MA) spend-down?

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 March 9, 2016, Petitioner was approved for a MA spend-down at \$824.00 per month. Petitioner's MA category is Group 2.
2. Due to Petitioner's COLA increases in RSDI, Petitioner's spend-down is currently \$866.00 per month.
3. Petitioner received \$1,261.00 per month in RSDI and Workmen's Compensation.
4. On April 24, 2020, Petitioner filed a hearing request indicating that his expenses exceed his income and that he did not receive a Medicaid card.

5. Petitioner's expenses exceed his income.

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.

Applicable policy and procedure is found at BAM 11, 115; BEM 163, 166, 530, 544 and 545. Specific spend-down policy is found in BEM 166. Corresponding federal regulations are found at 42 CFR § 435.601 and § 435.831.

Under federal and state law, individuals asserting eligibility for welfare benefits have the burden of proof by a preponderance of evidence.

Here, Petitioner does not dispute the income and expenses used in his MA budget. Rather, Petitioner argues that his expenses exceed his income. However, there is no dispute in this case as to the fact that Petitioner's expenses exceed his income. However, Petitioner did not offer into evidence any law or policy that would entitle him to a lower spend-down based on the fact, that his expenses exceed his income. Allowable expenses are identified in federal and state law and summarized in the Department policies. Petitioner offered no evidence that he entitled to more.

Petitioner also requested that he be issued a Medicaid card. However, the Department indicated that he is not issued a card until he has met his spend-down and is eligible for full Medicaid. To date, Petitioner has not met his spend-down.

Petitioner shared that he is a veteran who typically has no medical expenses as he goes to a VA hospital. However, the fact that he had an emergency a while ago and the ambulance took him to a non-VA hospital is not something that a state agency as any jurisdiction over.

Regarding old bills being applied to Petitioner's MA spend-down to the lower the amount, Petitioner may be entitled to a lower spend-down, should he follow the procedures to submit the bills and have them applied. However, to date, Petitioner has not done so. As such, there is no issue before the undersigned in that regard. The

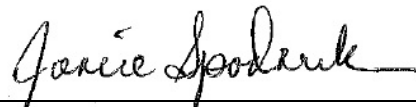
Department indicated that it had informed Petitioner as to the procedure to have old bills considered.

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 spend-down.

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

Roscommon County DHHS – Via
Electronic Mail

BSC1 – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

Petitioner

██████████ – Via First Class Mail
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██████████ MI ██████████