



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: June 23, 2021  
MOAHR Docket No.: 21-001710  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

### **HEARING DECISION**

On March 31, 2021, Petitioner, [REDACTED], requested a hearing to dispute a patient pay amount (PPA). As a result, a hearing was scheduled to be held on June 17, 2021, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. Petitioner's authorized hearing representative, [REDACTED], appeared at the hearing for Petitioner. Respondent, Department of Health and Human Services (Department), had Thomas Byrd, Eligibility Specialist, and Yvette Bishop-Turnbull, Family Independence Manager, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 17-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Whether the Department properly determined Petitioner's 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 enrolled in the Program for All Inclusive Care for the Elderly (PACE).
2. Petitioner receives \$934.00 per month from social security.
3. In March 2021, Petitioner fell and ended up in the hospital with a broken vertebra.
4. When Petitioner was released from the hospital, she was transferred to SKLD Plymouth for rehabilitation.

5. SKLD Plymouth is a nursing/long-term care facility.
6. SKLD Plymouth reported to the Department that Petitioner was admitted to its facility on [REDACTED] 2021, and it reported that Petitioner was expected to be in the facility for 30 days or more.
7. When the Department learned that Petitioner was admitted to SKLD Plymouth, the Department determined Petitioner's PPA by subtracting her eligible expenses from her income to calculate her share of the cost.
8. The Department calculated Petitioner's share of the cost at \$426.00 per month.
9. On March 19, 2021, the Department mailed a notice of case action to Petitioner to notify her that her PPA was \$426.00 per month, effective April 1, 2021.
10. Subsequently, the Department reviewed Petitioner's case and determined that it erroneously calculated Petitioner's PPA at \$426.00 per month when it should have been \$874.00 per month. However, the Department did not change Petitioner's PPA amount because it determined that it was required to honor its original calculation pursuant to a pandemic-related policy.
11. On March 31, 2021, Petitioner requested a hearing to dispute the PPA.

### **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 is disputing the PPA. The Department determined that Petitioner's PPA was \$426.00 per month after Petitioner was admitted to SKLD Plymouth. The Department determined Petitioner's PPA by taking her income of \$934.00 per month and subtracting expenses. The Department later determined that Petitioner should have only been eligible for a \$60.00 patient allowance expense, but the Department decided to honor the \$426.00 PPA it originally calculated.

PACE is a managed care program designed for the frail, elderly population. BEM 167 (October 1, 2020), p.1. When a PACE enrollee is admitted to a nursing facility or hospital, a PPA is calculated. *Id.* at 3. The PPA amount is the PACE enrollee's share of the cost, and it is equal to the PACE enrollee's total income minus total need. BEM 546 (January 1, 2021), p. 1. Total need is the sum of patient allowance, home maintenance disregard, community spouse allowance, family allowance, children's allowance, health insurance premiums, and guardianship/conservator expenses. *Id.* The patient allowance is \$60.00 for a patient expected to be in care for the entire month. *Id.* at 3.

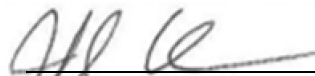
Petitioner did not present any evidence to establish that the Department did not properly determine her PPA. Since Petitioner was a PACE enrollee who was admitted to SKLD Plymouth, the Department was required to determine her PPA, and Petitioner did not present any evidence to establish that her PPA should have been lower than \$426.00. Therefore, the Department's decision is affirmed.

### **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 its policies and the applicable law when it determined Petitioner's PPA.

IT IS ORDERED, the Department's decision is **AFFIRMED**.

JK/cc



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**Jeffrey Kemm**  
Administrative Law Judge

**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

**Via Email:**

MDHHS-Washtenaw-Hearings  
BSC4-HearingDecisions  
EQADHearings  
C. George  
MOAHR

**Petitioner- Via USPS:**



**Authorized Hearing Rep.- Via USPS:**

