



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: May 31, 2022
MOAHR Docket No.: 21-006402
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On December 4, 2021, Petitioner, Kevin Kreh, requested a hearing to dispute his Medical Assistance (MA). As a result, a hearing was scheduled to be held on May 26, 2022, pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented himself. Respondent, Department of Health and Human Services (Department), had Sheila Crittenden, Family Independence Manager, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 24-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Whether the Department properly found Petitioner eligible for MA with a \$915.00 patient pay amount for December 2021?

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 disabled.
2. Petitioner has Medicare.
3. Petitioner is less than 65 years old.
4. Petitioner is a resident of Missaukee County.
5. In December 2021, Petitioner had monthly gross income of \$1,265.00 from social security RSDI.

6. On December 3, 2021, Petitioner was admitted to a long-term care facility.
7. The long-term care facility notified the Department that Petitioner was expected to remain there for more than 30 consecutive days, so the Department determined Petitioner's eligibility for extended care MA.
8. On December 4, 2021, the Department mailed a notice of case action to Petitioner to notify him that he was approved for health care coverage with a patient pay amount of \$915.00 for December 2021 and a monthly patient pay amount of \$1,205.00 beginning January 1, 2022.
9. The Department determined that Petitioner met his patient pay amount for December 2021, and the Department provided Petitioner with full coverage extended care MA after Petitioner met his patient pay amount for December.
10. Once the Department started Petitioner's full coverage extended care MA, the Department could not close it because policies enacted in response to COVID-19 prohibited the Department from stopping any MA coverage.
11. The Department has continuously provided Petitioner with full coverage extended care MA since Petitioner met his patient pay amount in December 2021.
12. Petitioner requested a hearing to dispute his patient pay amount.

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner is disputing his patient pay amount. The Department found that Petitioner was eligible for extended care MA with a \$915.00 patient pay amount for December 2021. Based on the evidence presented the Department properly determined Petitioner's patient pay amount for December 2021.

Extended care MA is available to certain individuals who were in a hospital or long-term care facility and were expected to be there at least 30 consecutive days. BEM 164 (July 1, 2020). For each month of extended care MA, the Department must determine the

individual's post-eligibility patient pay amount. *Id.* at 1. An individual's post-eligibility patient pay amount is equal to total income minus total need. BEM 546 (October 1, 2021), p. 1.

In December 2021, Petitioner's total income was \$1,265.00 from social security RSDI. Although the Department testified that Petitioner was eligible for a \$20.00 deduction from his social security RSDI, this deduction does not apply to extended care MA. BEM 541 (January 1, 2021), p. 1. Thus, Petitioner's total income was \$1,265.00. Petitioner's total need was determined by the allowances that Petitioner was eligible for. Petitioner was eligible for a patient allowance, which was equal to the protected income limit for his area since he was in the facility for less than the entire month of December 2021. BEM 546 at 3. The protected income limit for a household of one in Missaukee County was \$350.00. RFT 200 (April 1, 2017), and RFT 240 (December 1, 2013). Thus, Petitioner's total income was \$1,265.00, and his total need was \$350.00, so his patient pay amount was \$915.00.

The Department determined that Petitioner met his patient pay amount for December 2021, and the Department provided Petitioner with full coverage extended care MA after Petitioner met his patient pay amount for December. Once the Department started Petitioner's full coverage extended care MA, the Department could not close it because policies enacted in response to COVID-19 prohibited the Department from stopping MA coverage. Thus, Petitioner has had full coverage extended care MA since Petitioner met his patient pay amount in December 2021.

Once the Department is no longer prohibited from closing MA coverage due to policies enacted in response to COVID-19, the Department will have to redetermine Petitioner's eligibility for MA. The Department determined that Petitioner's patient pay amount would be \$1,205.00 beginning January 2022, but that was for extended care MA. If Petitioner is no longer in a long-term care facility when the Department redetermines Petitioner's eligibility, Petitioner will not be eligible for extended care MA. Rather, Petitioner will likely be eligible for Group 2 MA, which is what Petitioner had before he was admitted to the long-term care facility. Petitioner's monthly deductible will be different with Group 2 MA.

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 properly found Petitioner eligible for MA with a \$915.00 monthly deductible for December 2021.

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

JK/mp



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-Electronic Mail :

MDHHS-GR8North-Hearings
EQAD Hearings
C. George
MOAHR
BSC1

Via-First Class Mail :

[REDACTED]
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