



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: April 12, 2023
MOAHR Docket No.: 23-000628
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 March 15, 2023, from Detroit, Michigan. Petitioner did not appear for the hearing. Petitioner was represented by her Authorized Hearing Representative (AHR) ██████████. The Department of Health and Human Services (Department) was represented by Neda Dickinson, Assistance Payments Worker and Tamara Zander, Assistance Payments Supervisor.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) patient pay amount (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. In 2019, Petitioner began residing in a long-term care (LTC) facility.
2. On or around ██████████ 2019, Petitioner submitted an application requesting MA benefits. Petitioner was approved for MA under the Ad-Care category, with a monthly PPA.
3. Petitioner was previously receiving retirement, survivors, disability, insurance (RSDI or Social Security) benefits in the monthly amount of ██████████
4. On or around July 2, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective August 1, 2022, ongoing, she was approved for MA with a monthly patient pay amount of \$847. (Exhibit A, pp. 31-33)

5. The Department received information that Petitioner's monthly Social Security income was going to increase to \$█ effective January 1, 2023. As a result, the Department recalculated Petitioner's PPA
6. On or around December 3, 2022, the Department sent Petitioner a Health Care Coverage Determination Notice advising her that effective January 1, 2023, ongoing, she was approved for MA with a monthly patient pay amount of \$926. (Exhibit A, pp. 34-36)
7. The change in Petitioner's PPA effective January 1, 2023, was attributable only to the increase in her monthly income, as there were no other changes to income or total need.
8. On or around February 3, 2023, the Department received Petitioner's request for hearing, disputing the timing of the change in her PPA, as Petitioner's case was not due for an annual review.

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 requested a hearing disputing the Department actions with respect to her PPA. At the hearing, Petitioner's AHR asserted that Petitioner's PPA should not have changed in January 2023 because it had not been one year since the prior increase that was effective August 1, 2022. Petitioner's AHR asserted that Petitioner's MA eligibility should be reviewed once on annual basis and not several times throughout the year. Although Petitioner's AHR is correct that a renewal of Petitioner's MA eligibility should be completed on an annual basis, a redetermination is an eligibility review based on a reported change. BAM 210 (October 2022), pp.1-4.

At the hearing, the Department representative testified that Petitioner's PPA was recalculated because there was a change in her circumstances, specifically an increase in her RSDI income effective January 1, 2023. BEM 530 provides that the Department will determine income eligibility and post eligibility patient pay amounts on a calendar

month basis. Additionally, the Department will complete a budget to determine ongoing income eligibility when changes in circumstances occur in the processing month, or when a change is anticipated for the future month. BEM 530 (April 2020), pp. 1-4.

In response to the COVID-19 pandemic, temporary rules and waivers were implemented for MA cases. Prior to January 29, 2022, the Department was not authorized to apply PPA increases for already existing PPAs. However, the Bridges functionality preventing PPA increases was removed and effective January 29, 2022, the Department was authorized to apply increases in PPAs for changes in circumstances, including increases in income. (See COVID-19, MA Medicare Savings Programs Non-Closure FAQs, updated February 1, 2022). Therefore, because there was a change in Petitioner's income effective January 1, 2023, the Department was authorized to recalculate her PPA and apply the increase effective January 1, 2023.

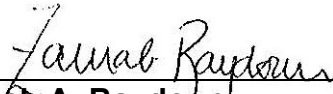
It is noted that although Petitioner's AHR did not dispute the amount of the \$926 PPA effective January 1, 2023, the undersigned reviewed the calculation of the PPA based on the total income and total need amounts relied upon by the Department. See BEM 546. Upon review, the Department properly calculated Petitioner's total income of \$[REDACTED] and took into consideration the \$60 patient allowance. There was no evidence that Petitioner was entitled to any additional total need based deductions. Therefore, the Department properly calculated Petitioner's PPA of \$926, based on the difference between her total income and total need. See BEM 546.

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 processed Petitioner's change in income and determined that she was eligible for MA with a PPA of \$926 effective January 1, 2023.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

ZB/ml



Zainab A. Baydoun
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 :

DHHS
Nathan Norman
Wayne-Adult Medical-DHHS
3040 West Grand Blvd
Detroit, MI 48202
MDHHS-Wayne-82-Hearings@michigan.gov

Interested Parties
BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail :

Authorized Hearing Rep.

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Petitioner

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