



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: July 17, 2024
MOAHR Docket No.: 24-004598
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner

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 hearing was held by telephone on June 17, 2024. Petitioner was represented by his legal guardian/Authorized Hearing Representative (AHR), [REDACTED] [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Long-Term Care or Hospital (L/H) post-eligibility 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. Petitioner is over the age of 65, single, and resides in a nursing home. (Exhibit A, p. 4; Exhibit B, p. 2).
2. Petitioner's sole source of income is Retirement, Survivors, and Disability Insurance (RSDI) in the amount of \$410 per month. (Exhibit A, p. 6).
3. On or about December 8, 2023, the Department received an application for health care coverage for a patient of a nursing facility from Petitioner's legal guardian on Petitioner's behalf. (Exhibit B, pp. 1 – 5).

4. On March 4, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) approving Petitioner for L/H assistance with a post-eligibility PPA of \$350. (Exhibit A, pp. 8 – 11).
5. On April 22, 2024, the Department received a request for hearing from Petitioner's legal guardian, disputing the amount of Petitioner's PPA. (Exhibit A, pp. 3 – 5).

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.

Petitioner's AHR requested a hearing to dispute the amount of Petitioner's monthly PPA for LTC. The Department determined Petitioner's monthly PPA was \$350.

For individuals in long-term care, the PPA is total countable unearned income plus the client's remaining earned income, minus total need. BEM 546, p. 1. For purposes of post-eligibility PPA, countable unearned income is the gross amount of RSDI (BEM 503 (January 2023), pp. 28 – 30, 38 – 39), minus Medicare and other health insurance premiums for the client actually withheld from the income. BEM 546, p. 2. For purposes of post-eligibility PPA, needs are limited to certain deductions for the following:

- a. Patient allowance of \$60 for clients who will be in L/H for the full L/H month or \$90 for certain veterans,
- b. Home maintenance disregard for clients who will be in L/H less than six months,
- c. Community spouse income allowance for married clients whose spouse is not in L/H,
- d. Family allowance for married clients whose spouse has certain dependents living with them,
- e. Children's allowance for clients without a community spouse who have unmarried children at home, subject to certain restrictions,

- f. Health insurance premiums paid by the client for another member of their fiscal group,
- g. Guardianship/conservator expenses paid by the client for the client's court appointed guardian or conservator.

BEM 546, pp. 3 – 9.

To determine Petitioner's post-eligibility PPA, the Department began with Petitioner's gross RSDI amount of \$410 and deducted the patient allowance of \$60 to determine the Petitioner's PPA to be \$350. (Exhibit A, p. 6). Though the AHR indicated in the request for hearing that he pays insurance premiums, no evidence was presented regarding the nature of the insurance or the amount of the premiums. (Exhibit A, p. 4). Additionally, the application for assistance indicated that Petitioner does not pay any insurance premiums. (Exhibit B, p. 2). Lastly, no evidence was introduced that any insurance premiums are withheld from Petitioner's RSDI. Therefore, the Department properly concluded that Petitioner's countable income was \$410.

No evidence was presented that Petitioner was eligible for any other needs deductions. (see also Exhibit B, pp. 1 – 5). And, although AHR is Petitioner's legal guardian, no guardianship expenses were identified on the application for assistance or asserted during the hearing. (Exhibit B, p. 2). Therefore, based on the information provided to it, the Department properly determined that the only deduction Petitioner was eligible for was the \$60 patient allowance. When Petitioner's gross RSDI is reduced by his patient allowance of \$60, the remainder is \$350 and therefore, the Department properly determined Petitioner's post-eligibility PPA to be \$350. (Exhibit A, pp. 8 – 11).

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 determined Petitioner's post-eligibility patient-pay amount to be \$350.

DECISION AND ORDER

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

CML/nr



Caralyce M. Lassner
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
Yaita Turner
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties
BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED], MI [REDACTED]