



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: June 25, 2024  
MOAHR Docket No.: 24-003852  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford**

### **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 May 30, 2024. Petitioner was represented by his guardian and Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Tom Jones, Assistance Payment Supervisor.

### **ISSUE**

Did the Department properly calculate Petitioner's patient pay amount (PPA) for the Medical Assistance (MA) Program?

Did the Department properly deny Petitioner's MA coverage for November 2023 due to excess assets?

### **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 resides in a nursing facility (NF).
2. Petitioner's gross monthly income in 2023 consisted of Veteran Administration (VA) benefits in the amount of [REDACTED] Social Security (SS) benefits in the amount of [REDACTED] and retirement benefits in the amount of [REDACTED] (Exhibit 1, pp. 1-5; 7-9). His gross monthly income in 2024 remained the same for his VA and retirement benefits, and his SS benefits increased to [REDACTED]. The Petitioner also pays a monthly Medicare Supplement Plan Premium in the amount of \$300.75. (Exhibit 1, p. 6).

3. In [REDACTED] 2023, Petitioner's wife passed away. During this time, a redetermination packet was sent to Petitioner to complete. Petitioner did not complete the redetermination packet.
4. In September 2023, Petitioner received notice from the Department that Petitioner's MA coverage would end if he did not complete the redetermination packet or reapply.
5. In [REDACTED] 2023, Petitioner reapplied for MA and Long-Term Care (LTC) coverage.
6. On October 17, 2023, following submission of the redetermination form, the Department sent a Verification Checklist (VCL) to Petitioner requesting bank account information for July 2023, August 2023, and September 2023, proofs regarding property taxes and mortgage statements, and current income showing gross and net income. (Exhibit A, pp. 18-19). The VCL proofs were to be returned to the Department by Petitioner by the due date of October 27, 2023.
7. Petitioner submitted verifications to the Department. (Exhibit A, pp. 20-22). The Department accepted and processed the provided verifications.
8. On February 2, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that he was approved for MA with his monthly patient pay amounts for the time periods of October 2023 (\$4,860), December 2023 (\$4,860), and January 1, 2024 ongoing (\$4,930). (Exhibit A, pp. 14-17). The HCCDN denied coverage for November 2023 for exceeding asset limits. (Exhibit A, p. 14).
9. On March 27, 2024, Petitioner requested a hearing disputing the Department's determination regarding his PPA and the denial of MA coverage for November 2023. (Exhibit A, pp. 3-13).

### **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 to dispute the Department's determinations regarding the PPA calculation and denial of MA coverage for November 2023 due to exceeding asset limits. The Department contended that the PPA was accurate based on Petitioner's monthly gross income and Petitioner's checking account balance in November 2023 which exceeded the \$2,000 asset limit for MA coverage.

A PPA is the monthly amount of a person's income which Medicaid considers available for meeting the cost of LTC services. Medicaid reduces its payment to the LTC facility by the PPA. Bridges Policy Glossary (BPG) (February 2024), p. 50; see also BEM 546 (January 2024), p. 1. The Department first determines MA eligibility, then determines the PPA. BEM 546, p. 1. The Department's determination of eligibility in February 2024 indicated that Petitioner had a PPA of [REDACTED] for October 1, 2023 through October 31, 2023 and December 1, 2023 through December 31, 2023, and [REDACTED] for January 1, 2024 ongoing.

The PPA is equal to Petitioner's total income minus his total need. BEM 546, p. 1. Total income is the countable unearned income plus remaining earned income of the institutionalized client. BEM 546, pp. 1-2. Petitioner has three sources of monthly income. As of October 2023, Petitioner had VA benefits of [REDACTED] SS benefits of [REDACTED] and retirement benefits of [REDACTED]. In 2024, Petitioner's VA and retirement benefits remained the same and his SS benefits increased to [REDACTED] 2,601.70. Petitioner's total monthly income was [REDACTED] in 2023 and [REDACTED] in 2024.

Total need is the sum of the following when allowed: patient allowance; home maintenance disregard; community spouse income allowance (CSIA); family allowance; children's allowance; health insurance premiums; and guardianship/conservator expenses. BEM 546, p. 1. The Department did not provide a copy of the budgets it used to determine Petitioner's PPA of [REDACTED] for October and December 2023 and [REDACTED] for January 2024 ongoing. At the hearing, the Department provided testimony regarding the February 2024 budget it based its determination on for the January 2024 ongoing PPA, and it was discussed on the record. Of note, the Department agreed that potential updates were needed in Petitioner's budget including adding to the total needs sum of Petitioner's \$300.75 monthly insurance premium. It was also unclear whether the Department included guardianship/conservator expenses, which Petitioner had incurred, in the total need sum. After review of the evidence, the Department has not established that it properly calculated Petitioner's PPA for October 2023 ongoing.

The AHR also challenged the Department's finding that Petitioner was ineligible for MA in November 2023 due to excess assets. Assets must be considered when determining eligibility under SSI-related MA programs. BEM 400 (July 2023), p. 1. The asset limit for SSI-related MA for an unmarried individual is \$2,000. BEM 400, p. 8. The Department considers cash, investments, retirement plans, and trusts. BEM 400, p. 1. Cash assets includes funds in a checking account. BEM 400, p. 15. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 7. Funds treated as income

by a program cannot be considered as an asset for the same month for the same program. BEM 400, p. 25.

Petitioner's AHR testified that in November 2023 she and the LTC facility where Petitioner resides made several attempts to contact the Department requesting information about November's PPA and the status of Petitioner's MA case. Petitioner's AHR testified that she was informed by Department staff that the MA application was pending, and she should do nothing and wait for an update. Petitioner's AHR was concerned about leaving a large balance in Petitioner's account and was unsure whether she was to pay the LTC facility as a private pay client or the PPA. When she did not hear back from the Department, Petitioner's AHR paid the November 2023 PPA to the LTC facility on December 4, 2023. Subsequently, the Department denied coverage for November 2023 due to Petitioner having funds in excess of \$2,000 in his bank account. (Exhibit A, pp. 20-22). Petitioner's AHR testified that Petitioner would not have exceeded the asset limit in November 2023 if the Department had responded to her inquiries on how to move forward while she was waiting for them to process Petitioner's MA eligibility.

In November 2023, Petitioner had an ending balance of \$6,486.05 in his savings account, \$200.01 in his emergency account, and █1,552.83 in his checking account, for a total outstanding balance of \$8,238.89. (Exhibit A, pp. 20-22). To determine the value of Petitioner's bank account, the outstanding balance must be reduced by the income deposits for the month, which totaled \$5,118.65 (the sum of Petitioner's monthly VA benefits of █ SS benefits of █ and retirement benefits of █). When the bank account balance is reduced by the income that was deposited in the account, the asset value of the account in November 2023 is \$3,120.24. A payment made to the LTC facility from the account on December 4, 2023 would not affect the November 2023 value of the account because the asset limit for MA is \$2,000. BAM 400, p. 8. Therefore, Petitioner was over the asset limit and the denial of MA coverage for November 2023 due to excess assets was proper and correct.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's PPA. The Department did act in accordance with Department policy when it denied MA coverage for November 2023 due to Petitioner exceeding asset limits.

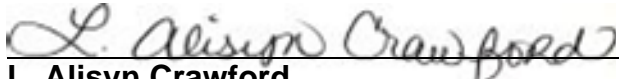
**DECISION AND ORDER**

The Department's decision is **AFFIRMED IN PART** with respect to Petitioner's November 2023 MA eligibility and **REVERSED IN PART** with respect to Petitioner's PPA.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Petitioner's PPA effective October 1, 2023 ongoing;
2. If Petitioner is eligible for a decreased PPA, pay the LTC facility for additional LTC benefits Petitioner was eligible to receive as a result of the recalculated PPA, in accordance with policy; and
3. Notify Petitioner and his AHR in writing of its decision.

LC/ml

  
**L. Alisyn Crawford**  
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  
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**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Authorized Hearing Rep.**

[REDACTED]  
MI [REDACTED]

**Petitioner**

[REDACTED]  
MI [REDACTED]