



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: August 13, 2024
MOAHR Docket No.: 24-004609
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 July 17, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Kmbali Carey, Public Health Emergency Supervisor, and Cindy Wasaya, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's AD-Care Medicaid (MA) Long-Term Care or Hospital (L/H) 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 was an ongoing MA recipient under the AD-Care program.
2. Petitioner was [REDACTED] years old, single, and in L/H since August 9, 2022. (Exhibit A, pp. 1, 15, 19 – 20).
3. Petitioner's sole source of income is Retirement, Survivors, and Disability Insurance (RSDI) in the amount of \$978 per month. (Exhibit A, p. 21).
4. On March 25, 2024, the Department received a MA redetermination application from Petitioner. (Exhibit A, pp. 19 – 25).

5. On April 11, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) approving Petitioner for L/H assistance with a PPA of \$918 effective May 1, 2024 ongoing. (Exhibit A, pp. 6 – 9).
6. On April 24, 2024, the Department received a request for hearing from Petitioner, disputing the amount of Petitioner's PPA. (Exhibit A, pp. 3 – 4).

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 requested a hearing to dispute the amount of her monthly PPA. The Department determined Petitioner's monthly PPA was \$918.

For individuals in long-term care (LTC) who are eligible for MA, the PPA is the client's share of the cost of that care. BEM 546 (July 2024), p. 1. The PPA is total countable unearned income plus the client's remaining earned income, minus total need. BEM 546, p. 1. For purposes of 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 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.

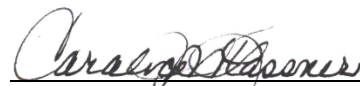
Here, the Department began with Petitioner's gross RSDI amount of \$978 and deducted the patient allowance of \$60 to determine the Petitioner's PPA to be \$918. (Exhibit A, p. 11). Because Petitioner did not pay any Medicare premiums from her RSDI, the Department properly considered her gross RSDI income. In this case, Petitioner has no permanent address other than the L/H facility. Because she does not have a legal obligation to pay housing expenses and has been in the LTC facility for more than six months, she is not eligible for the home maintenance disregard. See BEM 546, pp. 3 – 4. Though Petitioner testified that she purchases and prepares her own food and pays for her own transportation and a storage facility, those are not allowable needs deductions for the purpose of determining a client's PPA. No evidence was presented that Petitioner was eligible for any other needs deductions. 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 her patient allowance of \$60, the remainder is \$918 and therefore, the Department properly determined Petitioner's PPA to be \$918.

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 PPA to be \$918.

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
Trista Waishkey
Washtenaw County DHHS
22 Center Street
Ypsilanti, MI 48198
MDHHS-Washtenaw-Hearings@michigan.gov

Interested Parties

BSC4
M. Schaefer
EQAD
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]