

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-27046
Issue No: 2026
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 12, 2009
Ogemaw County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 12, 2009. Claimant personally appeared and testified.

ISSUE

Did the department properly deny payment of claimant's untimely submitted medical expense?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) At all times relevant, claimant was an ongoing MA recipient in Ogemaw County, Michigan, who was correctly placed in MA deductible status by the local DHS office (Department Exhibit #1, pgs 6-7).

(2) On March 19, 2009, claimant submitted to the local DHS office proof of a [REDACTED] medical expense he incurred four months earlier (November 2008)(Department Exhibit #1, pgs 1 and 4).

(3) The local office applied this old, unpaid expense against claimant's April 2009 deductible obligation as authorized in policy in BEM Item 545.

(4) This resulted in claimant being deemed to have met his monthly MA deductible obligation in April 2009.

(5) When the department notified claimant in writing of MA coverage approval for April 2009, he requested a hearing to protest their failure to activate coverage in November 2008 so his outstanding bill could get paid (See also Finding of Fact #2 above).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The facts of record are clear, as is the controlling policy, which states:

The group must report expenses by the last day of the third month following the month it wants MA coverage for. BEM Item 545, pg 9 (Department Exhibit #1, pg 5).

Claimant did not do this; consequently, he was simply not eligible for MA coverage in November 2008. Claimant's grievance centers on dissatisfaction with the department's current policy. Claimant's request is not within the scope of authority delegated to this Administrative

Law Judge pursuant to a written directive signed by the Department of Human Services Director,
which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

As such, this Administrative Law Judge has no basis to reverse the department's action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly denied payment of claimant's untimely submitted medical expense.

Accordingly, the department's action is AFFIRMED.

/s/ _____
Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 15, 2010

Date Mailed: April 16, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MBM/db

cc:

