

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Reg. No: 2010-35745

Issue No: 2000; 2006

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 16, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon request for a hearing. After due notice, telephone hearing was held on June 16, 2010. Claimant did not appear at hearing. Claimant was represented by [REDACTED].

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

(1) During April 2008, claimant was a recipient of MA benefits with a monthly deductible. Claimant had a different authorized representative at the time; not her current representative.

(2) During April 2008, claimant incurred medical expenses. During the months following April 2008, the department sent claimant and her representative several Verification Checklists (DHS-3503), requesting proofs related to the April expenses, the last checklist having been sent in October 2008. Neither claimant nor representative provided needed proofs.

(4) April 29, 2009, claimant appointed a new representative. On or about May 5, 2009, the new representative Faxed to the department notice that claimant had a deductible case in April 2008 and notice that it was now claimant's representative.

(5) March 2, 2010, the new representative requested a hearing on behalf of claimant regarding the lack of MA coverage for April 2008. This hearing request is not timely.

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).

Department manuals provide the following policy statements and instructions for caseworkers:

Monthly deductible is a process by which a person or household with excess income may qualify for MA coverage. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the monthly deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month it wants MA coverage. Medical expenses may be allowed when: (a) the expenses are incurred by an MA group member; AND (b) the MA individual or household is responsible for payment, AND (c) when they have not previously been used to meet a monthly deductible. The bills may be old or new expenses. Bridges Eligibility Manual (BEM) 545; 42 CFR 435.831(b)-(d); MCL 400.106,.107.

Allow clients 10 days to provide verification. If unable to provide verifications despite a reasonable effort, the deadline may be extended. Bridges Administrative Manual (BAM) 130; 42 CFR 435.913(a); 42 CFR 435.916(b); MCL 400.37; Public Law 109-171; Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3.

You must verify the following before using an allowable medical expense to determine eligibility:

- Date expense incurred.
- Amount of expense.
- Current liability for an old bill.
- Receipt of personal care services provided in an adult foster care home or home for the aged. BEM 545.

Clients must meet all other financial eligibility requirements. Income eligibility exists for the calendar month tested when:

- There is no excess income.
- Allowable medical expenses equal or exceed the excess income. BEM 545.

BAM 600 provides that a hearing may be granted due to allegations of department delay in any action beyond the standard of promptness. BAM 600; 42 CFR 431.200-.250 42 USC 1396r-5.

In this case, the department did not authorize MA coverage for the month of April 2008. Claimant and her representative at the time-frame at issue were provided written notices of needed proofs and were allowed several extensions of deadline. Neither claimant nor her representative at the time provided needed documents. In May 2009, claimant's new representative notified the department that it was now claimant's representative and informed the department that claimant had an MA deductible in April 2008. The representative did not request MA coverage for April 2008. The request for coverage was indicated on the request for hearing date March 2, 2009. Viewing the matter in a manner most favorable to the claimant, had the new representative filed a request for April 2008 MA coverage in May 2009, it would not have been timely as the matter had been timely and fully addressed with claimant and previous representative in 2008. As such, a request for April 2008 MA coverage that was made in March 2009 was not timely. For the same reasons, the new representative's request for hearing is not timely. As such, the Administrative Law Judge does not have jurisdiction over the matter at issue. Arguendo, if there were proper jurisdiction, the department has met its burden of proof and the action would be upheld. Finding of Fact 1-5.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the hearing request is not timely and the Administrative Law Judge does not have jurisdiction over the matter at issue. If there were jurisdiction, the department's action would be upheld.

Accordingly, the hearing request is HEREBY DISMISSED.

/s/
Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 20, 2010

Date Mailed: August 26, 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.

JAB/db

cc:

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