STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
FOR THE DEPARTMENT OF COMMUNITY HEALTH
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IN THE MATTER OF:

Docket No. 2010-55564 MSB
Case No. 32992900

[redacted],

Appellant
_____/

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, following the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. [redacted], the Appellant's [redacted], appeared on the Appellant's behalf. [redacted], [redacted], represented the [redacted] or Department). [redacted], [redacted], appeared as a witness for the Department. At the hearing, it was discovered that there were [redacted] outstanding bills, and the Department was working with the providers in an attempt to pay them. So a continued hearing was scheduled to give the Department additional time to pay those bills if possible. A continued hearing was conducted on [redacted], with all of the original parties present.

ISSUE

Did the Department properly deny payment for the bill submitted by [redacted] for services rendered to the Appellant on [redacted]?

FINDINGS OF FACT

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

1. The Appellant received emergency hospital services between the dates of [redacted] and [redacted]. (Exhibit 1, pages 11-31)

2. Because of a coding error related to the Appellant's age, citizenship, and Medicare status, bills for those emergency hospital services were originally denied. (Testimony of [redacted])

3. The coding error has since been fixed and the Appellant has been approved, effective [redacted], for emergency services coverage only. (Exhibit 1, pages 9-10)

4. As of the [redacted] hearing, the majority of the claims had been paid. However, one bill, from [redacted], for services rendered on [redacted], remained outstanding. (Exhibit 3, page 2)

5. The Department denied payment for the [redacted] bill because the provider failed to submit the bill with the emergent codes as required for payment. (Exhibit 3, page 2)

6. The Appellant requested a formal, administrative hearing on [redacted]

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

Providers cannot bill beneficiaries for services except in the following situations:

- A co-payment for chiropractic, dental, hearing aid, pharmacy, podiatric, or vision services is required. However, a provider cannot refuse to render service if the beneficiary is unable to pay the required co-payment on the date of service.
- A monthly patient-pay amount for inpatient hospital or nursing facility services. The local DHS determines the patient-pay amount. Non-covered services can be purchased by offsetting the nursing facility beneficiary's patient-pay amount. (Refer to the Nursing Facility Chapter for more information.)

- For nursing facility (NF), state-owned and -operated facilities or CMHSP-operated facilities determine a financial liability or ability-to-pay amount separate from the DHS patient-pay amount. The state-owned and -operated facilities or CMHSP-operated facilities liability may be an individual, spouse, or parental responsibility. This responsibility is determined at initiation of services and is reviewed periodically. The beneficiary or his authorized

representative is responsible for the state-owned and -operated facilities or CMHSP ability to pay amount, even if the patient-pay amount is greater.

- The provider has been notified by DHS that the beneficiary has an obligation to pay for part of, or all of, a service because services were applied to the beneficiary's Medicaid deductible amount.

- If the beneficiary is enrolled in a MHP and the health plan did not authorize a service, and the beneficiary had prior knowledge that he was liable for the service. (It is the provider's responsibility to determine eligibility/enrollment status of each beneficiary at the time of treatment and to obtain the appropriate authorization for payment. Failure of the provider to obtain authorization does not create a payment liability for the beneficiary.)

- Medicaid does not cover the service. If the beneficiary requests a service not covered by Medicaid, the provider may charge the beneficiary for the service if the beneficiary has been told prior to rendering the service that it was not covered by Medicaid. If the beneficiary is not informed of Medicaid non-coverage until after the services have been rendered; the provider cannot bill the beneficiary.

- The beneficiary refuses Medicare Part A or B.

- Beneficiaries may be billed the amount other insurance paid to the policyholder if the beneficiary is the policyholder.
- The beneficiary is the policyholder of the other insurance and the beneficiary did not follow the rules of the other insurance (e.g., utilizing network providers).

- The provider chooses not to accept the beneficiary as a Medicaid beneficiary and the beneficiary had prior knowledge of the situation. The beneficiary is responsible for payment.

It is recommended that providers obtain the beneficiary's written acknowledgement of payment responsibility prior to rendering any non-authorized or non-covered service the beneficiary elects to receive.

Some services are rendered over a period of time (e.g., maternity care). Since Medicaid does not normally cover services when a beneficiary is not

eligible for Medicaid, the provider is encouraged to advise the beneficiary prior to the onset of services that the beneficiary is responsible for any services rendered during any periods of ineligibility. Exceptions to this policy are services/equipment (e.g., root canal therapy, dentures, customized seating systems) that began, but were not completed, during a period of eligibility. (Refer to the provider-specific chapters of this manual for more information regarding exceptions.)

When a provider accepts a patient as a Medicaid beneficiary, the beneficiary cannot be billed for:

- Medicaid-covered services. Providers must inform the beneficiary before the service is provided if Medicaid does not cover the service.
- Medicaid-covered services for which the provider has been denied payment because of improper billing, failure to obtain PA, or the claim is over one year old and has never been billed to Medicaid, etc.
- The difference between the provider's charge and the Medicaid payment for a service or for missed appointments.
- Copying of medical records for the purpose of supplying them to another health care provider.

If a provider is not enrolled in Medicaid, they do not have to follow Medicaid guidelines about reimbursement, even if the beneficiary has Medicare as primary.

If a Medicaid-only beneficiary understands that a provider is not accepting him as a Medicaid patient and asks to be private pay, the provider may charge the beneficiary its usual and customary charges for services rendered. The beneficiary must be advised prior to services being rendered that his **mihealth** card is not accepted and that he is responsible for payment. It is recommended that the provider obtain the beneficiary's acknowledgement of payment responsibility in writing for the specific services to be provided.

Medicaid Provider Manual,
General Information for Providers Section,
July 1, 2010, pages 21-22

At issue in the present case is the bill submitted by [redacted] for

services rendered to the Appellant on [redacted]. The Department witness explained that the Department cannot pay the bill because it was not coded as being for emergent services, which is the only Medicaid coverage the Appellant has. She further explained that she is working with the billing department at [redacted] to resolve the problem. However, at this point, the bill cannot be paid.

The Appellant's representative testified that he wants the Department to pay the bill from [redacted]. He also inquired about compensation for the Department's delay in processing the Appellant's bills and for damaging the Appellant's credit. However, it was explained to the Appellant's [redacted] that this Administrative Law Judge has no jurisdiction to award the Appellant compensation.

The Department cannot issue payment for non-covered services. Here, the provider has not coded the services as emergent services, which are the only services that are covered for the Appellant. Accordingly, the Department's denial of payment for the bill as submitted by [redacted] was proper. However, the Department should continue to work with the provider to get this matter resolved.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that it was proper for the Department to deny payment for the bill submitted by [redacted] because the bill was not properly coded.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

Kristin M. Heyse
Administrative Law Judge
for Janet Olszewski, Director
Michigan Department of Community Health

cc: [redacted]

[redacted]
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Decision and Order

[redacted]

Date Mailed: 12/29/2010

***** NOTICE *****

The State Office of Administrative Hearings and Rules for the Department of Community Health may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The State Office of Administrative Hearings and Rules for the Department of Community Health will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the mailing date of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.