

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: 201053987

Issue No: 2026

[REDACTED]
Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on August 31, 2010. After due notice, a telephone hearing was held on Wednesday, January 5, 2011. Chris Earley of L&S associates, Inc., represented the Claimant's interests during the hearing.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. The Claimant is an ongoing MA recipient.
2. On June 15, 2010, the Department notified the Claimant that his MA deductible had been met for a benefit period beginning May 22, 2010.
3. The Claimant had incurred medical expenses on May 19, 2010, that were not included in the benefit period beginning May 22, 2010.
4. On August 31, 2010, the Department received the Claimant's request for a hearing, protesting the Department's failure to adjust the start of his MA benefit period to include the May 19, 2010, expenses.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Send a DHS-114A to the group with every Deductible Notice. At their option, groups may use the DHS-114A to report:

- Incurred medical expenses.
- Changes in circumstances.

Give the group a MSA-Pub. 617 or send one with the deductible notice when an active deductible starts and at each redetermination. BEM 545.

A group may report additional expenses that were incurred prior to the MA eligibility begin date you calculated for that month. BEM 545. Do not alter the MA eligibility begin date if you have already authorized coverage on Bridges. BEM 545. However, any expenses the group reports that were incurred from the first of such a month through the day before the MA eligibility begin date might be countable as old bills. BEM 545. A group with excess income can delay deductible for one or more future months based on allowable old bills. BEM 545.

The Claimant is an ongoing MA recipient. On June 15, 2010, the Department notified the Claimant that his MA deductible had been met for a benefit period beginning May 22, 2010. The Department then received medical expenses that the Claimant incurred on May 19, 2010. These expenses were not included in the benefit period beginning May 22, 2010.

The Department's representative testified that Bridges Eligibility Manual Item 545 prohibits the Department from changing the MA eligibility begin date once coverage has been authorized, but instead permits these expenses as old bills.

The Claimant's representative argued that the Department gave the Claimant insufficient notice of the policies and regulations concerning his MA deductible. The Claimant's representative testified that if the Claimant had been more informed that his MA benefits could have been dispensed more favorably.

Bridges Eligibility Manual Item 545 requires the Department to provide clients with certain information concerning their MA deductible. Among the forms the Department will provide are the Deductible Report (DHS-114A) and the Medicaid Deductible Information (MDCH Publication 617). These forms are produced by the Department's central printing system and are sent to clients automatically by means of the

Department's Bridges computer system. In this case, the Department did not offer evidence that it sent the Claimant the DHS-114A or MDCH Publication 617 forms.

While the Department has a duty to ensure that its clients are well informed of their rights to receive benefits, the Claimant has not established that a failure to receive the Deductible report, or the Deductible pamphlet contributed to the Department's determination of the Claimant's benefit period. Furthermore, the Department has established that it determined the Claimant's benefit period consistent with Bridges Eligibility Manual Item 545.

The Claimant's representative argued that the Department's policies concerning the establishment of a MA deductible benefit period is unfair and inconsistent with federal regulations, i.e., 42 CFR 435.831.

However, the claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to 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).

The Department has established that it determined the Claimant's eligibility for MA benefits in accordance with policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's MA eligibility.

The Department's MA eligibility determination is AFFIRMED. It is SO ORDERED.

/s/ Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: _1/26/11_____

Date Mailed: _1/27/11_____

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 60 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.

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