

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF

[REDACTED]

[REDACTED]
Cass County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

ORDER OF DISMISSAL

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a three-way telephone hearing was held on September 14, 2011, in Lansing, Michigan. The participant on behalf of Claimant was her Authorized Hearing Representative (AHR), [REDACTED], Inc. The participants on behalf of the Department of Human Services ("Department") included [REDACTED]

Claimant requested a hearing regarding her Medical Assistance ("MA" or "Medicaid") coverage. The issue concerned the department's processing of Claimant's Medicaid Deductible. Initially, Claimant appeared to dispute the Department's decision to enter Claimant's medical expenses that were incurred from a later date of service before expenses were reported for an earlier date. Prior to the conclusion of the hearing, both the Department and Claimant's AHR agreed to the material facts. Moreover, both parties agreed that the controlling authority in this matter is Bridges Eligibility Manual (BEM) item number 545 at page 10, which indicates, "Do not alter the MA eligibility begin date if you have already authorized coverage on Bridges." Before the end of the hearing, Claimant's AHR then confirmed that the request for hearing was not a result of department's action, but was a facial challenge to BEM 545 itself. Specifically, Claimant request for a hearing was to ask the Administrative Law Judge to overrule, amend and/or rewrite department policy because it purportedly violates federal law.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code (MAC) Rules 400.901 - 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

MAC R 400.903(1). A request for hearing shall be in writing and signed by the claimant, petitioner, or authorized representative. MAC R 400.904(1).

It is well-settled in Michigan that Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); see also Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co., supra*.

The Bridges Application Manual (BAM) addresses the administrative hearing process for DHS clients. BAM 600 provides that clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the **decision** is incorrect. The administrative hearing is offered to provide clients with a method to review a department decision and determine its appropriateness. BAM 600. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600. The ALJ's decision is final, unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. See BAM, Item 600, p. 28.

It should be noted, however, that BAM 600 contains an exception for cases that involve MA client eligibility. If the presiding ALJ believes an MA policy at issue in a given case, does not conform to federal or state law, then: (1) the ALJ issues a recommended decision within 20 days of the hearing date; (2) copies of the decision are sent to the client, AHR, DHS Policy Hearing Authority, DHS local office and Chief Executive Officer (CEO) of DCH-MSA, all of whom may file exceptions with the ALJ; (3) the recommendation and exceptions are forwarded by the DHS Bureau of Legal Affairs to the DCH CEO through the DCH Administrative Tribunal and (4) the DCH CEO makes the final decision regarding all recommended decisions. See BAM 600 at pp 29 & 30.

Prior to the closure of the hearing record, Claimant, through her AHR, indicated that she now understood the department's actions. Although Claimant does not challenge a Department decision, she claims that the Department's policy (BEM 545, page 10) conflicts with federal law. But Claimant did not cite to any specific law or provide any other specific authority to show how BEM 545 violates federal law. In the absence of such a showing, this Administrative Law Judge has no basis to find that BEM 545 fails to conform to state and/or federal law. "Where a party fails to cite any supporting legal authority for its position, the issue is deemed abandoned." See *Head v Phillips Camper Sales & Rental, Inc*, 234 Mich App 94, 116; 593 NW2d 595 (1999); *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998); and *Ward v Frank's Nursery*, 186 Mich App 120, 129-30; 463 NW2d 442 (1990). Therefore, this ALJ will not issue such a recommendation. Claimant's request for hearing in the instant matter essentially asks this ALJ to exercise powers that he simply does not possess.

Therefore, it is not necessary for the Administrative Law Judge to decide the matter that was in dispute. Claimant challenges department policy, not department action. Pursuant to MAC R 400.906 and 400.903, Claimant's hearing request is HEREBY DISMISSED because Claimant is not aggrieved by a department action as it pertains to her Medicaid benefits.

It is SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 9/19/11

Date Mailed: 9/19/11

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.

■ [REDACTED]