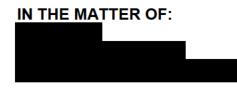
STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING SYSTEM ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES



Reg. No.: Issue No.: Case No.: Hearing Date: DHS County: 2011-45178 2026

October 3, 2011 Oakland (02)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; M SA 16.437 upon the claimant's request for a hearing. After due notice a telephone hearing was held from Detroit, Michigan on September 29, 2011. The claimant appeared and testified.

<u>ISSUE</u>

Did the Department of Hum an Services (Department) properly deny the claimant's submitted bills as not being provided by a recognized provider?

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 claimant is a recipient of Medical Assistance (MA) with a deductible.
- 2. The claimant suffers from severe fibr omyalgia and her physician designated that she receive "pool/ therapy."
- 3. The Department disallowed this therapy because it was not being provided by a certain type of provider.
- 4. On July 7, 2011, the claimant filed a request for a hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Sec urity Act and is implemented by T itle 42 of the C ode of Federal Regulations (CFR). The

Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MC L 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In the instant case, the claimant questi ons the De partment's decision to deny her therapy from a massage therapist because they are not c onsidered a "medical provider."

Department policy does not sp ell out a list of approved m edical providers. BEM 554 states in pertinent part:

Allowable medical expenses are limited to the following:

Medical and dental care in cluding psy chotherapy and rehabilitation services provided by the lic ensed practitioner authorized by Stat e law or other qualified healt h professional. (BEM 554, p.9).

The Department raised the q uestion with the Departm ent of Community Health (DCH). DCH resp onded that massage therapists are not a health professional, even though DCH licenses massage therapists in its Bureau of Health Professionals.

This Administrative Law Judge can find no listing of such "qualified health professionals" and massage therapists are licensed pr actitioners authorized by state law. This Administrative Law Judge finds that the Department erred when it denied the expenses incurred by the claimant as a part of her deductible MA expenses.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the Department to acce pt documentation of the claimant's expenses for pool and massage therapy as part of her deductible expenses. The Department shall further ca lculate benefits withheld from the claimant and replac e same.

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Michael J. Bennane Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: October 26, 2011

Date Mailed: October 26, 2011

NOTICE: Administrative Hearings may or der a rehearing or reconsideration on either its own motion or at t he request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 mailing 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ADMINISTRATIVE LAW JUDG E to address other rel evant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings consideration/Rehearing Request

Re consideration/Rehearing Request P. O. Box 30639 Lansing, Michigan 48909-07322

MJB/cl

