

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: 20116623
Issue No: 2026
Case No: 1 [REDACTED]
Hearing Date: March 16, 2011
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on March 16, 2011.

ISSUE

Did the DHS present credible and substantial evidence that it correctly calculated claimant's MA eligibility for September, October, and November 2008 pursuant to its February 22, 2010 notice?

FINDINGS OF FACT

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

1. All relevant times as applicable to the case herein, claimant was an MA recipient with the Michigan DHS.
2. Claimant was approved MA pursuant to January 2007 MRT decision.
3. Claimant disputes the MA eligibility calculated by the department for September, October, and November 2008. Claimant had substantial bills; claimant repeatedly called the department regarding his bills and eligibility for each month. Claimant's worker was in contact with claimant and with [REDACTED] and indicated on more than one occasion that claimant would have full MA coverage during these months that there would be no problem with coverage.

Claimant was subsequently denied September 1 through September 9, 2008; October 1 through October 6, 2008; and the entire month of November, 2008.

4. Claimant's worker subsequently retired. Claimant's worker and any individual(s) who have personal knowledge of this case were not available at the administrative hearing for testimony and/or cross-examination.
5. Eighteen months later--on February 22, 2010--the department issued a letter to claimant informing claimant that his September, October, and November 2008 request was being denied as he only had 90 days to submit the bills. At the time of the denial, it was a year and a half later.
6. Claimant credibly testified that he did not receive notice of the 90 day rule and/or application of "old bills paid." The department had no evidence of informing claimant of the 90 day rule.
7. The DHS stipulated that if claimant's "old bills" were currently applied, during the time period at issue, claimant would have been eligible for full MA coverage.

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).

Applicable policy and procedure to the case herein is found in numerous items. With regards to meeting a deductible, policy is found primarily in what was known then as PEM Item 545.

The purview of an Administrative Law Judge is to review the department's actions and to make a determination that those actions were correct under policy and procedure. The focus of time is at the time the department took the action.

In this case, it is very confusing as claimant disputes the application of the deductible and/or the old bills for September 2008 through November 2008. Claimant repeatedly called numerous times over the time period from 2008 until February 2010. Both claimant and [REDACTED] were informed that coverage "would be put on" but it was not a priority as the department and these workers had other priorities to do to their caseload. In fact, the DHS did not act for one and a half

years later which was some months after claimant's worker retired. That worker was not present at the administrative hearing. That worker was not available for testimony and/or cross examination.

Claimant was a credible witness. The department had no evidence of having notified claimant of the 90 day rule. As the department was unable to meet its burden of proof, this Administrative Law Judge finds under the preponderance of evidence burden of proof standard that the department failed to make its case and thus, the department's actions are reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's proposed actions were incorrect.

Accordingly, the department's denial of MA coverage for the months at issue is, hereby, REVERSED.

The department is Ordered to activate full MA coverage for claimant from September 2008, October 2008, and November 2008. It is so Ordered.

/s/

Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 1, 2011

Date Mailed: April 1, 2011

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 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.

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JGS/db

cc:

