

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-45178
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: October 3, 2011
DHS County: 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.

ISSUE

Did the Department of Human 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 fibromyalgia 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 Security Act and is implemented by Title 42 of the Code 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 questions the Department's decision to deny her therapy from a massage therapist because they are not considered a "medical provider."

Department policy does not spell out a list of approved medical providers. BEM 554 states in pertinent part:

Allowable medical expenses are limited to the following:

Medical and dental care including psychotherapy and rehabilitation services provided by the licensed practitioner authorized by State law or other qualified health professional. (BEM 554, p.9).

The Department raised the question with the Department of Community Health (DCH). DCH responded 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 practitioners 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 accept documentation of the claimant's expenses for pool and massage therapy as part of her deductible expenses. The Department shall further calculate benefits withheld from the claimant and replace same.



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 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.

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

- A rehearing **MAY** 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 JUDGE to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MJB/cl

cc:

