STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH
P.O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax: (517) 334-9505

IN THE MATTER OF:

Docket No. 2012-39941 MSB
Case No. [redacted]

[redacted]

Appellant
_____/

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Appellant's request for a hearing.

After due notice, a hearing was held on [redacted]. The Appellant was represented by her attorney, [redacted]. Her witness was her mother, [redacted]. [redacted], Appeals Review Officer, represented the Department. His witness was [redacted], Problem Resolution Specialist, MSA.

ISSUE

Did the Department properly deny the Appellant's claim for payment of Medical bills?

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 Appellant is a [redacted]-year-old Medicaid-CSHCS beneficiary. (Appellant's Exhibit #1)

2) The Department (Problem Resolution Unit) received the instant complaint for unpaid, out–of-state, emergency medical bills, generated in the month of [redacted] in [redacted]. (Department's Exhibit A, pp. 2, 4-7)

3) The Problem Resolution Unit investigation showed that the submitting provider was not enrolled with the Michigan Medicaid program, had not sought prior authorization and submitted the bills as non emergent – although the testimony clearly showed a medical emergency. (Department's Exhibit A, pp. 5 – 7)

4) Medicaid denied payment for the Appellant's services, in part. They authorized the larger inpatient billing from [redacted] Hospital, however. (Department's Exhibit A, p. 4)

5) At hearing the Department's witness, [redacted], testified that the family had several days remaining [before the claims would become stale] to contact the provider[s] to properly submit or resubmit outstanding bills. (*See* Testimony of [redacted])

6) The instant appeal was received by the Michigan Administrative Hearing System for the Department of Community Health on [redacted] – with one adjournment request brought by the Appellant and granted by the ALJ on [redacted] rescheduling the in person hearing for [redacted].

CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

All claims must be submitted in accordance with the policies, rules, and procedures as stated in the Medicaid Provider Manual:

[ ] OUT OF STATE/BEYOND BORDERLAND PROVIDERS

Reimbursement for services rendered to beneficiaries is normally limited to Medicaid-enrolled providers. MDCH reimburses out of state providers who are beyond the borderland area (defined below) if the service meets one of the following criteria:

●Emergency services as defined by the federal Emergency Medical Treatment and Active Labor Act (EMTALA) and the Balanced Budget Act of 1997 and its regulations; or

●Medicare and/or private insurance has paid a portion of the service and the provider is billing MDCH for the coinsurance and/or deductible amounts; or

●The service is prior authorized by MDCH. MDCH will only prior authorize non-emergency services to out of state/beyond borderland providers if the service is not available within the state of Michigan and borderland areas.

Managed Care Plans follow their own Prior Authorization criteria for out of network/out of state services.

Providers must be licensed and/or certified by the appropriate standard-setting authority.

All providers (except pharmacies) rendering services to Michigan Medicaid beneficiaries must complete the on-line application process described in the Provider Enrollment Section of this Chapter in order to receive reimbursement. Exceptions to this requirement may be made in special circumstances. These circumstances will be addressed through the Prior

Authorization process. Pharmacies must complete the enrollment process with MDCH's PBM. Refer to the Provider Enrollment Section of this Chapter for additional information.

Out of state/beyond borderland providers enrolled with the Michigan Medicaid program may submit their claims directly to CHAMPS. **(Revised 7/1/12)** Providers should refer to the appropriate Billing and Reimbursement chapter of this manual for billing instructions.

MDCH is prohibited by federal law from issuing Medicaid payment to any financial institution or entity whose address is outside of the United States.

Out of state/beyond borderland providers have a responsibility to follow Michigan Medicaid policies, including obtaining PA for those services that require PA.

....

(Emphasis supplied) Medicaid Provider Manual, (MPM), §7.3, General Information for Providers Section, July 1, 2012, page 13[1]

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The Department provided evidence that the Appellant was eligible for Medicaid-CSHCS at the time of the out-of-state emergency service. The Department's investigation clearly showed, however, that the billing provider did not list their services as an emergency. (*See* Department's Exhibit A, at pages 5 – 7)

Additionally, the delinquent provider ([redacted]) failed to enroll in Michigan Medicaid or submit a request for Prior Authorization. The Department's witness testified that the inpatient hospital bill for the DOS [redacted] through [redacted] was paid.

The Appellant's witness testified that while on a family vacation in [redacted] the Appellant aspirated a peanut into her lung and quickly developed pneumonia. She was placed on ventilator and treated – successfully – and then transported back to Michigan by motor vehicle as flying was medically prohibited.

The Appellant's witness and counsel for the family indicated on the record that they would contact the outstanding medical billers and advise them to submit or resubmit their bills in a timely manner. The parties were advised to contact the ALJ in the event that the case resolved on passing of the 12-month stale claims period. As of this writing, there has been no contact from the parties.

[1] This section of the MPM was recently amended to permit direct submission of claims to CHAMPS. Previous editions – including the version in effect at the time of denial and appeal – directed claims submission to the MDCH billing system. *See* MPM §7.3, General Information for Providers, January 1, 2012 at page 13.

On review, Medicaid (the Department) had no obligation to satisfy a claim never made – or to satisfy an improperly submitted [out-of-state] claim. The bills presented as unpaid at hearing were submitted as a non-emergent services – when the facts clearly showed that the Appellant was in serious medical jeopardy[2] owing to respiratory failure.

The Appellant's reliance on error, while understandable, was misplaced. As explained by [redacted], the MSA Specialist, there was no legal duty for the Department to pay – although a small window for presentation of properly presented claims existed as of the date of hearing.

Unfortunately, the ALJ's jurisdiction does not extend to equitable solutions for the Appellant. Federal regulations and state policy prohibit payment by Medicaid without properly submitted claims. The state policy must be strictly applied.

Based on the information before it, the Department of Community Health [Problem Resolution Unit] correctly denied the Appellant's claim on appeal.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department properly denied the Appellant's claim.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

\S\

Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

cc: [redacted]

Date Mailed: 9/14/12

[2] *See* Emergency Services as defined in Emergency Medical Treatment and Active Labor Act (EMTALA) and Appellant's Ex. #2. pp. 22 and 29.

***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant 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 of the rehearing decision.