

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

IN THE MATTER OF:

Reg. No: 2012-49773
2012-19489
Issue No: 2026

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

RECONSIDERATION HEARING

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 [REDACTED]. Claimant did not appear. Claimant was represented at the hearing by [REDACTED], who appeared and testified on claimant's behalf.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant's medical bills for May and June 2011 could not be paid?

FINDINGS OF FACT

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

1. On [REDACTED], claimant filed an application for Medical Assistance and retroactive Medical Assistance benefits for the months of [REDACTED] and [REDACTED].
2. Claimant was admitted to the hospital in [REDACTED].
3. Claimant had medical bills from [REDACTED].
4. On [REDACTED] the department caseworker sent claimant notice that her deductible spend-down would be [REDACTED].
5. On [REDACTED], a verification checklist was sent to claimant with verifications due [REDACTED].
6. On [REDACTED] all verification information was received and the application was processed.

7. On [REDACTED], Medical Assistance was approved beginning [REDACTED] with a deductible spend-down. Retroactive Medical Assistance was also approved with a deductible spend-down for the months of [REDACTED].
8. The notice of case action form also enclosed a deductible report for claimant's authorized hearings representative to list medical expenses already incurred that had not yet been reported.
9. The notice of case action also indicated, "For each month that you must incur expenses to become eligible for Medicaid, you have until the last day of the third month following the deductible month to submit your incurred medical expenses."
10. On [REDACTED], medical expense verification was received from [REDACTED] after the 90th day time period for allowed coverage during the months of service.
11. On [REDACTED] filed a request for a hearing to contest the failure of the department to enter medical expenses for May and [REDACTED] on the system.
12. On [REDACTED] a hearing was held.
13. On [REDACTED], Administrative Law Judge Landis Y. Lain issued a decision and order affirming the department's actions.
14. On [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] filed a request for rehearing/reconsideration.
15. On [REDACTED], Supervising Administrative Law Judge Marya Nelson-Davis issued and Order Granting Request for Reconsideration.

CONCLUSIONS OF 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 R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the ALJ failed to accurately address all the relevant issues **raised in the hearing request**.

Rehearing/ Reconsideration Requests

All Programs

The department, client or authorized hearing representative may file a written request for rehearing/reconsideration. Request a rehearing/ reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing, and that could affect the outcome of the original hearing decision.
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion.
- Typographical, mathematical, or other obvious error in the hearing decision that affects the rights of the client.
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the client must specify all reasons for the request.

A written request made by the AHR or, if none, by the client, must be faxed to:

- (517) 335-6088- Attention: SOAHR Client Requested Rehearing/Reconsideration
- SOAHR (now MAHS) will not review any response filed to any rehearing/reconsideration requests.

A request must be received within 30 days of the date the hearing decision is mailed. The request must be received as follows:

- Department request -- received in SOAHR (MAHS).
- Client or authorized hearing representative request -- received anywhere in DHS.

Granting A Rehearing/ Reconsideration

All Programs

SOAHR (MAHS) will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties to the original hearing. SOAHR (MAHS) grants a rehearing/reconsideration request if:

- The information in the request justifies it; **and**
- **There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this item.**
- **If the** client or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client or authorized hearing representative may waive the timeliness requirement in writing to allow the rehearing/reconsideration.

All Programs

Pending a rehearing or reconsideration request, implement the original Decision and Order unless a circuit court or other court with jurisdiction issues an Order which requires a delay or stay.

If such an order is received by the client, MAHS, the court or the Legal Affairs, or if there are questions about implementing the order; see Administrative Handbook manual Legal & FOIA Issues (AHN) item 1100, How to Obtain Legal Services. BEM, Item 600.

Michigan provides Medical Assistance Michigan provides MA eligible clients under two general classifications: Group 1 and Group 2 MA. Claimant qualified under the Group 2 classification because she received RSDI income which consists of clients whose eligibility results from the state designating certain types of individuals as medically needy. BEM, Item 105. In order to qualify for Group 2 MA, a medically needy client must have income that is equal to or less than the basic protected monthly income level. Department policy sets forth a method for determining the basis maintenance level by considering:

1. The protected income level,
2. The amount diverted to dependents,
3. Health insurance and premiums, and
4. Remedial services if determining the eligibility for claimants in adult care homes.

If the claimant's income exceeds the protected income level, the excess income must be used to pay medical expenses before Group 2 MA coverage can begin. This process is known as a deductible spend-down.

Claimant's representative argues: that the policy is unfair because it presents a hardship for the claimant who had legitimate expenses that are not being covered.

There is no explanation of the “do not alter” policy, which explains the rationale that a client negates coverage for bills which are not submitted in sequence or within the last day of the third month following the month in which the group wants MA coverage.

This Administrative Law Judge finds that policy in BEM Item 545, page 1 clearly states: when “hospitalization” equals or exceeds the group's excess income for the month tested, income eligibility exists **for the entire month**.

The Department has not established that it was acting in compliance with department policy when it determined that claimant's [REDACTED] y and [REDACTED] bills could not be paid because it was received after the last day of the third month following the month in which the group wants MA coverage. BEM 545 clearly states that the individual must be given the most advantageous use of their old bills (also known as incurred expenses). Department policy clearly dictates that when a person meets the deductible spend down for the month, that they are entitled to receive Medical Assistance coverage for the entire month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not appropriately established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant's [REDACTED] [REDACTED] bills for medical treatment could not be paid because they were received outside the last day of the third month following the month in which the group wants MA coverage. Department policy clearly states that a person who meets their deductible spend-down qualifies for coverage for the entire month.

Accordingly, the prior decision is **VACATED** and the department's decision is **REVERSED**. The Department is **ORDERED** to reprocess claimant's deductible spend down for the months of [REDACTED], and include all bills received in a timely manner in its calculation and if claimant is otherwise eligible, to submit the pertinent bills for payment under the Medical Assistance policy.

/s/ _____

Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

heading

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.

LYL/jk

cc:



L. Y. Lain
MAHS