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

IN THE MATTER OF:

[redacted]

Reg. No: 201311167
Issue No: 2014
Case No: [redacted]
Hearing Date: March 28, 2013
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

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 received by the Department of Human Services (department) on October 10, 2012. After due notice, a telephone hearing was held on March 28, 2013. Claimant was present at the hearing and Claimant's authorized representative, [redacted], appeared on Claimant's behalf by three-way conference call. The department was represented by [redacted], an eligibility specialist, and [redacted], an assistance payments supervisor, both with the department's Ottawa County office.

ISSUE

Whether the department properly determined Claimant's Medical Assistance (MA) deductible for the benefit period effective May 11, 2012?

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 May 25, 2012, Claimant's authorized representative submitted an application for MA benefits on Claimant's behalf.

2. On June 8, 2012, the department received from Claimant the requested verifications/statements of her medical expenses from May 11, 2012; May 16, 2012 – May 19, 2012; and May 21, 2012. (Department Exhibit A)

3. On June 11, 2012, the department approved Claimant for MA benefits with her MA deductible in the amount of $[redacted] having been met effective May 11, 2012. (Department Exhibits B, C)

4. On June 11, 2012, the department received from Claimant additional verifications/statements of her medical expenses from May 6, 2012, May 11, 2012, May 12, 2012, May 15, 2012 – May 19, 2012, May 21, 2012 – May 25, 2012, May 27, 2012, and May 29, 2012. (Department Exhibit D)

5. The department determined that Claimant's medical expenses from May 6, 2012 and submitted to the department on June 11, 2012 were not countable because the expenses were incurred prior to the May 11, 2012 effective date on which the department determined Claimant had met her deductible amount.

6. On October 10, 2012, Claimant's authorized representative submitted a Request for Hearing on Claimant's behalf, protesting the department's determination that Claimant's May 6, 2012 medical expenses submitted on June 11, 2012 were not countable towards Claimant's MA deductible. (Request for Hearing)

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 her claim for assistance is denied. MAC R 400.903(1) Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. 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 was 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 Bridges Reference Manual (BRM).

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

The Medicaid program is comprised of several sub-programs or categories. One category is FIP recipients. Another category is SSI recipients. There are several other categories for persons not receiving FIP or SSI. However, the eligibility factors for these categories are based on (related to) the eligibility factors in either the FIP or SSI program. Therefore, these categories are referred to as either FIP-related or SSI-related.

To receive Medicaid under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women, receive Medicaid under FIP-related categories.

Clients may qualify under more than one Medicaid category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105.

The State of Michigan has set guidelines for income, which determine if a Medicaid group is eligible. Income eligibility exists for the calendar month tested when there is no excess income, or allowable medical expenses equal or exceed the excess income (under the Deductible Guidelines). BEM 545.

Net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. BEM 166. The protected income level is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 Medicaid protected income levels based on shelter area and fiscal group size. BEM 544. An eligible Medicaid group (Group 2 MA) has income the same as or less than the “protected income level” as set forth in the policy contained in the Reference Table (RFT). An individual or Medicaid group whose income is in excess of the monthly protected income level is ineligible to receive Medicaid.

However, a Medicaid group may become eligible for assistance under the deductible program. The deductible program is a process, which allows a client with excess income to be eligible for Medicaid, if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group’s monthly excess income is called the deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. The Medicaid group must report expenses by the last day of the third month following the month it wants medical coverage. BEM 545; 42 CFR 435.831.

The Medicaid group may report additional expenses that were incurred prior to the MA eligibility begin date that the department calculated for a given month. BEM 545, p. 10. However, the department may not alter the MA eligibility begin date if the department has already authorized coverage on Bridges. BEM 545, p. 10. Instead, any expenses the Medicaid group reports that were incurred from the first of such a month through the day before the MA eligibility begin date might be countable as old bills. BEM 545, p. 10.

That the department may not alter the MA eligibility begin date if the department has already authorized coverage on Bridges is underscored by Example 7 set forth in BEM 545 as follows:

EXAMPLE 7 Expenses Reported After MA Coverage Added

Mr. C. has a $55.00 deductible amount.

10/7/01 - Mr. C. reports the following allowable medical expenses:
- 10/1/01 Dentist for filling - $37.50.
- 10/6/01 Outpatient blood test - $52.00.

10/14/01 - Authorize full MA coverage effective 10/6/01 with Mr. C's liability = $17.50.

10/28/01 - Mr. C. verifies the following additional allowable medical expenses:
- **10/2/01 Specialist exam - $75.00**
- 10/2/01 Prescription - $18.75

Determine that the specialist exam is unpaid. However, Mr. C. paid for the prescription.
Coverage cannot be backdated to an earlier date in 10/01. Therefore, you complete a budget on Bridges for 11/01, counting the $75.00 expense as an old bill. The paid prescription cost cannot be counted.

Mr. C. meets his deductible for 11/01, based on the $75.00 old bill.
$20.00 remains as an unused old bill. BEM 545, p. 23. (Emphasis added)

In this case, Claimant disagrees with the department's determination that Claimant's medical expenses, incurred by Claimant on May 6, 2012 and submitted to the department on June 11, 2012 after the department authorized Claimant's MA eligibility begin date of May 11, 2012, were not countable towards Claimant's deductible because the expenses were incurred prior to the effective date on which the department determined Claimant had met her deductible amount.

At the March 28, 2013 hearing, the department representative testified that her interpretation of BEM 545 precluded the department from counting Claimant's medical expenses incurred on May 6, 2012 because these expenses were incurred prior to May 11, 2012, the date on which the department determined that Claimant had met her $[redacted] deductible amount.

In response, Claimant's authorized representative asserted that BEM 545 is an unfair policy that should be reconsidered as it presents a hardship to Claimant. However, Claimant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

> Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

After having carefully considered and weighed the testimony and other evidence in the record, this Administrative Law Judge agrees with the department's interpretation of BEM 545 and finds that Claimant's circumstances are identical to those set forth in Example 7 to BEM 545, which expressly provides that coverage cannot be backdated to an earlier date after MA coverage has been authorized. Specifically, this Administrative Law Judge finds that because the medical expenses at issue were incurred by Claimant before May 11, 2012, the first day of Claimant's MA eligibility date, such expenses may not be countable towards Claimant's deductible amount for that month.

Accordingly, the Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the March 28, 2013 hearing, the department properly determined that Claimant's medical expenses submitted to the department on June 11, 2012 and incurred by Claimant on May 6, 2012 were not countable towards Claimant's deductible because these expenses were incurred prior to May 11, 2012, the date on which the department determined that Claimant had met her $[redacted] deductible amount for May 2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Claimant's medical expenses submitted to the department on June 11, 2012 and incurred by Claimant on May 6, 2012 were not countable towards Claimant's deductible because these expenses were incurred prior to May 11, 2012, the date on which the department determined that Claimant had met her $[redacted] deductible amount for May 2012.

The department's actions in this regard are therefore **UPHELD**.

It is **SO ORDERED.**

/s/_____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 5, 2013

Date Mailed: April 5, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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 this 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 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 errors, or other obvious errors in the hearing decision that effect the substantial rights of Claimant;
  - The failure of the ALJ 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc: [redacted]