

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201327760
Issue No.: 2026
Case No.: [REDACTED]
Hearing Date: July 16, 2013
County: Macomb 12

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 following Claimant's request for a hearing. After due notice, a 3-way telephone hearing due to an SSP application was held on July 16, 2013. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], ES Worker.

ISSUE

Did the Department of Human Services (Department) properly process Claimant's old bills on Claimant's spend down?

FINDINGS OF FACT

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

1. Claimant disputes February, March, and April 2012.
2. Claimant indicates he submitted bills to activate his MA coverage for 3 months which should have triggered MA eligibility. Claimant's spend down is \$ [REDACTED]. Claimant submitted a 2/24/12 - \$ [REDACTED] bill; for a 3/2/12 - \$ [REDACTED] bill; for 4/3/12 - \$ [REDACTED].
3. The Department's evidentiary record was prepared by an individual who did not have personal knowledge of this case. That individual indicates that the only date in issue is the \$ [REDACTED] bill in March, 2012. The Department erred in itemizing the bills.
4. The individual who held the prehearing conference and isolated the issues with Claimant was not at the administrative hearing. The individual who

processed the case was not available at the administrative hearing. Neither of these individuals was present for testimony and/or cross-examination.

5. Claimant credibly testified that he delivered the bills and eligibility should have been triggered for each month and paid for each month.
6. The Department stipulated at the hearing that there was an error and the April bills should have been paid as Claimant had full MA coverage in April, 2012.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the 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 MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

The Department's testimony at the administrative hearing was difficult in that the two individuals who had personal knowledge of this case were not present at the administrative hearing for testimony and/or cross-examination. The Department has the burden of proof to establish what was done on the case was correct and in compliance with DHS policy and procedure.

The issue here has to do with Claimant's spend down and full MA in the months February, March, and April, 2012. Claimant's hearing request does not indicate that he is disputing one day; the Department's testimony was centered on one day. In fact, there is no one day with one bill that totals \$ [REDACTED] but rather the 3 months totaled together based on Claimant's testimony totaled the \$ [REDACTED]. Moreover, the policy that the Department indicates was applicable in this case which was: "BAM 245" has nothing to do with issues herein. The evidence in the case prepared by the Department to support its position that Claimant's MA does not activate for 24 hours after he meets his deductible was not in fact policy but from a DHS training manual. The Department did not present any law or authority which would indicate that a DHS training manual is binding policy on this administrative form to apply in calculating eligibility and reviewing the issue.

The Correct policy applicable herein is BAM 545. There are a number of examples given in this policy with regards to how and when a spend down is met and what eligibility is triggered. See examples beginning on page 21. In all these examples, the policy indicates that eligibility begins on the day the individual meets his/her deductible. The Department's argument is that the deductible would not begin for 24 hours after the date the deductible is met. Once again, the Department's argument in reliance on a training manual and not DHS policy and procedure. See specifically for example: "Example 2." In this example, an individual established eligibility pursuant to a bill incurred on "5/3/02 for \$ [REDACTED]. The example subsequently indicates that the Department, in this example, would trigger eligibility for the individual as follows:

"He has MA coverage for 5/3/02 - 5/31/02"

The policy goes on read that in this example: "...Mr. B's liability for 5/3/94 [sic] is less than \$ [REDACTED]. Therefore, [REDACTED] does not have to pay it." BAM Item 545, p 22.

It's nonsensical to imagine that if an individual exactly meets this spend down eligibility would not trigger until a day later where if they meet less than the spend down eligibility is triggered on the same day.

In any case, there is no authority, law, or policy which would allow the Department to submit a training manual as authority.

The Department is ordered herein to pay the 3 bills at issue herein and to indicate that there was eligibility from the date of those bills for each month for MA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly when it denied Claimant's medical bills for 2/24/12; 3/2/12; 4/3/12.

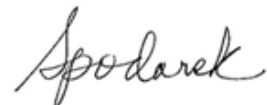
Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Properly process Claimant's full MA eligibility for the months February, March, and April, 2012 beginning with the following dates in each month:

2/24/12; 3/2/12; 4/3/12.
2. The Department shall insure that the Medicaid Center properly issue payment for these bills and issue notice to Claimant indicating the same. Claimant shall have his right to a hearing for 90 days from the date of written notice to him.

It is SO ORDERED.



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

Date Signed: 8/5/13

Date Mailed: 8/5/13

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. (60 days for FAP cases)

The Claimant 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 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 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

JGS/tb

cc:

