

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201321736
Issue No.: 2012
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Lapeer

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone hearing was held on May 29, 2013. Participants on behalf of Claimant included [REDACTED] (Claimant) and [REDACTED] ([REDACTED]). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Worker).

ISSUE

Did the Department properly determine Claimant's coverage for Medical Assistance (MA) based on her medical bills?

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 was active with an MA deductible (or "spend down").
2. On December 21, 2012, Claimant's AR requested a hearing because the Department refused to apply coverage for Claimant's medical bills from March, April, and June, 2010.
3. On December 27, 2012, the Department prepared a hearing summary along with a hearing packet, but the Department did not include any documents in the packet.

CONCLUSIONS OF LAW

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify: (1) the action being taken by the department; (2) the reason(s) for the action; (3) the specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing about any of the following: (1) denial of an application and/or supplemental payments; (2) reduction in the amount of program benefits or service; (3) suspension or termination of program benefits or service; (4) restrictions under which benefits or services are provided; (5) delay of any action beyond standards of promptness and (6) for FAP only, the current level of benefits or denial of expedited service. BAM 600.

The Department local office has 15 (fifteen) days from receipt of hearing request to do **all** of the following: (1) log the request; (2) contact the client or authorized hearing representative; (3) obtain and submit to MAHS verification of the authorized hearing representative's prior authorization, if needed; (4) arrange a prehearing conference¹ including all appropriate staff; (5) determine the nature of the complaint; and (6) forward the request with either a DHS-18A, Hearing Request Withdrawal, or a DHS-3050 to MAHS so that MAHS receives them by the 15 (fifteenth) day.

Policy requires the Department resolve disagreements and misunderstandings quickly at the lowest possible level to avoid unnecessary hearings. BAM 600. Upon receipt of a hearing request, the Department should schedule a prehearing conference with the client or authorized hearing representative and conduct a supervisory review. BAM 600 at page 12. The client or authorized hearing representative is not required to phone or meet with any Department staff in order to have a hearing and any notice of prehearing conference must explain this. See BAM 600 page 12.

¹ The conference need not be **held** within the 15 day standard.

Department policy further discusses the importance of conducting a prehearing conference. See BAM 600 pages 12 and 13. The policy provides that the Department must assure that clients receive the services and assistance to which they are entitled. BAM 600. Concerns expressed in the hearing request should be resolved whenever possible through a conference with the client or authorized hearing representative rather than through a hearing. BAM 600.

For each hearing not resolved at a prehearing conference, the Department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. BAM 600. The DHS-3050 narrative must include **all** of the following: (1) clear statement of the case action, including all programs involved in the case action; (2) facts which led to the action; (3) policy which supported the action; (4) correct address of the AHR or, if none, the client; and (4) **description of the documents the local office intends to offer as exhibits at the hearing.** BAM 600.

Department workers who attend the hearings, are instructed to **always** include the following in planning the case presentation: (1) an explanation of the action(s) taken; (2) **a summary of the policy or laws used to determine that the action taken was correct;** (3) any clarifications by central office staff of the policy or laws used; (4) the facts which led to the conclusion that the policy is relevant to the disputed case action; (5) the DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BEM 600.

During the hearing, the Administrative Law Judge will follow the same rules used in circuit court to the extent these rules are practical in the case being heard. BAM 600. The ALJ must ensure that the record is complete, and may do the following: (1) take an active role in questioning witnesses and parties; (2) assist either side to be sure all the necessary information is presented on the record; (3) be more lenient than a circuit court judge in deciding what evidence may be presented; and (4) refuse to accept evidence that the ALJ believes is unduly repetitious, immaterial, irrelevant or incompetent.. BAM 600.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

Claimant's request for a hearing in the instant matter concerns the Medical Assistance (MA) program, which 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.

In the instant matter, the Department has failed to comply with BAM 600. With the exception of the hearing summary (DHS-3050), which is not evidence, the Department did not include any documents in the hearing packet which relate to Claimant's request for a hearing. All of the objective evidence in this matter was provided by Claimant's AHR. Based on the available evidence, it appears that the following sequence of events occurred:

Claimant applied for MA benefits in December 2009. Reportedly, the Department failed to provide Claimant with formal written notice that she had been approved for a medical deductible or spend down. (Both Claimants' AHR and the Department agree that Claimant had a MA deductible, but there were no Bridges documents or notices of case action in the record to support this contention.) Apparently, the Department and Claimant's AHR engaged in discussions about Claimant's MA eligibility. These discussions resulted in the Department's Lapeer County local office agreeing to apply coverage for some of Claimant's medical expenses. On June 29, 2012, the Department mailed Claimant a Medical Determination Verification Checklist (DHS-3503-MRT) which requested Claimant provide medical bills/expenses for March, April and June of 2010. The DHS-3503 indicated the following: "We must have proof of the medical expenses to apply the expense." Both Claimant and the Department agree that Claimant provided the requested verification bills. Both parties also contend that the first time Claimant was informed that she had a deductible was on June 29, 2012.

The Department representative who attended the hearing in this matter testified (and the hearing summary provides) that Claimant had a deductible for the months at issue (March, April and June 2010) but the Department did not properly advise Claimant about the deductible. As soon as Claimant became aware about her deductible in late June 2012, she forwarded her medical bills from March, April and June 2010 to the Department for coverage. The Department then forwarded the bills on or about July 18, 2012 for coverage, but the Department was unable to process the 2010 medical bills in 2012. The Department requested a Help Desk ticket on August 13, 2012 to apply the coverage. At the time of the hearing request in this matter, the ticket had not been resolved. At the hearing in this matter, the Department representative testified that the Help Desk refused to apply coverage because the medical bills were "too old."

Here, the Department has simply failed to meet its burden of proof. The Department cannot possibly prevail in a contested case without providing any documents or exhibits for the Administrative Law Judge to consider. The Department failed to provide any evidence, let alone competent, material and substantial evidence. Accordingly, this Administrative Law Judge finds in favor of the Claimant under these circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not act properly when it refused to apply Claimant's medical bills from March, April and June 2010 for her MA coverage.

Accordingly, the Department is **REVERSED**.

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

- The Department is ordered to initiate a redetermination of Claimant's MA eligibility.
- The Department shall also process Claimant's medical bills from March, April and June of 2010.
- The Department shall provide Claimant with any retroactive and/or supplemental benefits to the extent required to do so under applicable policies.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 3, 2013

Date Mailed: June 3, 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. (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.

201321736/CAP

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

CAP/aca

cc:

