

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

**IN THE MATTER OF:**



Reg. No.: 2014-32633  
Issue No.: 2004  
Case No.: [REDACTED]  
Hearing Date: April 22, 2014  
County: Wayne (35)

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a three-way telephone hearing was held on April 22, 2014 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Authorized Hearing Representative (AHR)) from [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Hearing Facilitator).

**ISSUES**

Did Claimant's AHR's timely request a hearing to compel the Department to process Claimant's medical bills from August, 2010?

Did the Department properly process Claimant's medical bills for purposes of Claimant's Medical Assistance (MA) or "Medicaid" deductible?

**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 for MA G2C with a deductible.
2. On November 2, 2010, the Department acknowledged receipt of an itemized bill from [REDACTED] for medical services for Claimant dated August 7, 2010.
3. On May 31, 2011, Claimant's AHR faxed the Department a letter that enclosed another copy of the August 7, 2010 itemized [REDACTED] bill with a request that the Department process the bill.

4. On September 23, 2011, Claimant's AHR faxed a second letter to the Department again requesting the Department process the August 7, 2010 itemized hospital bill.
5. The Department failed to process the August 7, 2010 itemized bills from [REDACTED].
6. On October 18, 2011, Claimant's AHR requested a hearing to compel the Department to process the August 7, 2010 itemized bills from [REDACTED].

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

There are two issues in the instant matter. The first issue concerns whether the Administrative Law Judge has jurisdiction to hear this matter.

#### **Timeliness of Hearing Request**

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (3-1-2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

Here, Claimant's AHR requested a hearing on October 18, 2011 after the Department allegedly failed to process Claimant's medical bills relative to his MA deductible case. Claimant does not challenge the Department's decision to deny an application for program benefits nor does he wish to challenge a reduction or closure of active program. Rather, the basis of Claimant's request for a hearing is that the Department

failed to act with reasonable promptness. The Department did not mail Claimant a Notice of Case Action (DHS-1605) in this matter. Moreover, the essence of Claimant's argument is that the Department failed to act. Under these circumstances, Claimant's request for hearing is not barred by the 90 day provision cited above. Accordingly, this Administrative Law Judge has jurisdiction to hear this matter.

The second issue is whether the Department properly processed Claimant's itemized hospital bills from August 7, 2010.

### **Medical Assistance (MA) deductible or spend down**

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. BEM 545, p 9 (1-1-2010). Active Deductible cases will be opened on Bridges without ongoing Group 2 MA coverage as long as the fiscal group has excess income and at least one fiscal group member meets all other Group 2 MA eligibility factors. BEM 545, 9.

Periods of MA coverage are added each time the group meets its deductible. BEM 545, p 9. Each calendar month is a separate deductible period. BEM 545, p 9. The first deductible period cannot be earlier than the processing month for applicants and is the month following the month for which MA coverage is authorized for recipients. BEM 545, p 9.

According to policy, the fiscal group's monthly excess income is called a deductible amount. BEM 545, p 9. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. The group must report expenses by the last day of the third month following the month in which the group wants MA coverage. Department policy BAM 130 explains verification and timeliness standards. BEM 545, p 9.

The department is authorized to close an active deductible case when any of the following occur: (1) no one in the group meets all nonfinancial eligibility factors; (2) countable assets exceed the asset limit or (3) the group fails to provide needed information or verification. The department is instructed to add periods of MA coverage each time the group meets its deductible. BEM 545, p 9.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity

of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Here, the Department admitted that Claimant had an MA spend-down case and also acknowledged receipt of the bill in question. Specifically, the Department maintains that the bill was sent to the Department's Greendale District on May, 2011. The evidence shows that [REDACTED] was the Department representative at the time and she confirmed on November 4, 2010 that the Department received the bill in question. The Department should have processed this bill toward Claimant's MA deductible case. The Department did not provide any reasonable basis for its failure to process this bill under BEM 545.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to process Claimant's itemized medical bill from August, 2010 for purposes of Claimant's MA deductible case.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process Claimant's August, 2010 bills.
2. If necessary, the Department shall request a DTMB remedy ticket to process Claimant's medical bills from August, 2010 toward the MA deductible case.
3. If necessary, the Department shall request the DTMB remedy ticket be expedited and treated as a priority matter.
4. To the extent required by policy, the Department shall provide Claimant with any retroactive and/or supplemental benefits.

IT IS SO ORDERED.



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

Date Signed: May 5, 2014

Date Mailed: May 5, 2014

**NOTICE OF APPEAL:** 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing 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 claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

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The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-07322

CAP/las

cc:

