

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-003850
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: August 14, 2014
County: Oakland-District 2

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 telephone hearing was held on August 14, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly determine the Claimant's Medical Assistance (MA) for October of 2013?

FINDINGS OF FACT

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

1. The Claimant is an ongoing Medical Assistance (MA) recipient.
2. The Claimant was eligible for Medical Assistance (MA) benefits in October of 2013.
3. The Claimant incurred medical expenses in October of 2013.
4. On May 5, 2013, the Department notified the Claimant that she had not met her deductible for October of 2013.
5. On May 27, 2014, the Department received the Claimant's request for a hearing, protesting the Department's failure to apply certain expense receipts towards her deductible for October of 2013.

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).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

A Medical Assistance (MA) group must report expenses by the last day of the third month following the month in which the group wants MA coverage. BEM 545, p 11.

A Medical Assistance (MA) benefit group may report additional expenses that were incurred prior to the MA eligibility begin date the Department calculated for that month. The Department will not alter the Medical Assistance (MA) eligibility begin date if the Department has already authorized MA coverage. Any expenses the group reports that were incurred from the first of such a month through the day before the Medical Assistance (MA) eligibility begin date might be countable as old bills. Department of Human Services Bridges Eligibility Manual (BEM) 545 (July 1, 2013), pp 12-13.

In this case, the Claimant was an ongoing Medical Assistance (MA) recipient in October of 2013, and incurred medical expenses. On May 27, 2014, the Department notified the Claimant that she had not met her medical deductible for October of 2013, and declined to accept additional medical receipts from that month because more than three months has passed since October of 2013.

The Claimant testified that on January 18, 2014, she submitted verification of the expenses the Department declined to apply towards her October 2013 deductible.

The Department's representative testified that it was possible that the Claimant had previously submitted her medical receipts.

This Administrative Law Judge finds that the Department has failed to establish that the Claimant failed to submit verification of her October 2013 medical expenses in time to apply towards her October 2013 deductible.

This Administrative Law Judge finds that the Claimant failed to establish that the expenses not applied towards her deductible were not incurred before an eligibility date was set in October of 2013.

The production of evidence to support the department's position is clearly required under BAM 600 as well as general case law (see e.g., *Kar v Hogan*, 399 Mich 529; 251 NW2d 77 [1976]). In *McKinstry v Valley Obstetrics-Gynecology Clinic, PC*, 428

Mich167; 405 NW2d 88 (1987), the Michigan Supreme Court addressed the issue of burden of proof, stating in part:

The term "burden of proof" encompasses two separate meanings. [citation omitted.] One of these meanings is the burden of persuasion or the risk of nonpersuasion. The other is the risk of going forward or the risk of nonproduction. The burden of producing evidence on an issue means the liability to an adverse ruling (generally a finding or a directed verdict) if evidence on the issue has not been produced. It is usually on the party who has pleaded the existence of the fact, but..., the burden may shift to the adversary when the pleader has discharged [its] initial duty. The burden of producing evidence is a critical mechanism[.]

The burden of persuasion becomes a crucial factor only if the parties have sustained their burdens of producing evidence and only when all of the evidence has been introduced.

McKinstry, 428 Mich at 93-94, quoting McCormick, Evidence (3d ed), Sec. 336, p. 946.

In conclusion, this Administrative Law Judge finds that the Department failed to establish that it properly determined the Claimant's Medical Assistance (MA) eligibility for October of 2013. It is not clear that the Claimant is entitled to have all of her medical expenses incurred in October of 2013, applied towards her deductible for the month, but the Department has failed to provide adequate documentation that her expenses were properly excluded.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it declined to apply all of the Claimant's medical expenses incurred in October of 2013, towards her deductible in that month.

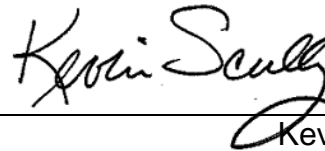
DECISION AND ORDER

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. Initiate a determination of the Claimant's eligibility for Medical Assistance (MA) for October of 2013.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.

3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/19/2014**

Date Mailed: **8/19/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

