

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 14-010408
Issue No.: 2001
Case No.: ██████████
Hearing Date: November 20, 2014
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 November 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Manager; and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) deductible case for the month of August 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. Claimant's husband is an ongoing recipient of MA - Group 2 Caretaker Relatives (G2C). See Exhibit 1, pp. 24 and 26.
2. For August 2013, Claimant's husband had MA – G2C coverage with a monthly \$272 deductible. See Exhibit 1, pp. 24 and 26.
3. On August 22, 2013, Claimant's husband reported three medical expenses with incurred dates of August 12, 2013; August 19, 2013; and August 20, 2013. See Exhibit 1, p. 36.

4. Effective August 20, 2013, Claimant's husband met his deductible based on the medical expenses reported on August 22, 2013. The Department authorized full MA coverage from August 20, 2013, to August 31, 2013 (partial coverage).
5. On October 14, 2013, Claimant's husband reported a medical expense incurred on August 19, 2013. See Exhibit 1, p. 36.
6. The medical expense was reported after MA coverage had been added and the Department did not alter the MA eligibility begin date to August 19, 2013, as it had already authorized coverage effective August 20, 2013.
7. The coverage cannot be backdated to August 19, 2013 and this medical expense cannot be counted towards his August 2013 coverage.
8. On July 7, 2014, Claimant's husband's AHR filed a hearing request, protesting the Department's action. See Exhibit A, p. 1.
9. On October 14, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant/AHR a Notice of hearing, which scheduled a hearing on October 27, 2014.
10. On October 27, 2014, the Department requested an adjournment.
11. On October 29, 2014, the Administrative Law Judge (ALJ) sent both parties an Adjournment Order.
12. On November 7, 2014, MAHS sent Claimant/AHR a Notice of hearing, which rescheduled a hearing on November 20, 2014.

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.

Preliminary matters

First, the Department argued that the AHR's hearing request was not timely filed within ninety days of the Notice of Case Action and thus, should be dismissed for lack of jurisdiction. The Department testified that a Notice of Case Action was sent on August 23, 2013, showing that his deductible had been met for August 20, 2013. The Department argued that the hearing request is almost one year after the Notice of Case Action. However, the AHR testified that there was no negative action and thus, inferred the ninety-day time limit is not applicable.

Based on the foregoing information, it is found that the AHR filed a timely hearing request. There is no negative action present in this case. Instead, the AHR argued that Claimant's husband's expenses incurred on August 19, 2013 should be counted towards his August 2013 coverage. For the above stated reasons, the AHR's hearing request is found to be timely. See BAM 600 (July 2014), pp. 4-6.

Second, the AHR requested a recommended decision to this ALJ based on the following information. The Claimant's husband had incurred medical expenses on two separate occasions: August 19, 2013 to August 20, 2013 and August 22, 2013. See Exhibit A, p. 1. The Department had verification of incurred expenses for the latter date of service and entered MA coverage prior to receipt of verification of incurred expenses for the earlier dates of service. See Exhibit A, p. 1. The AHR argued that the Department is unable to change the begin date of coverage because of BEM 545 policy, which tells the worker to "do not alter the MA eligibility begin date if you have already authorized coverage." BEM 545 (July 2013), p. 13. The AHR's hearing request indicated this policy is unfair and should be reconsidered by the Department and it presents a hardship for the Claimant's husband who had legitimate expenses that are not being covered. See Exhibit A, p. 1.

The AHR argued two main points. First, there is no explanation of the above policy within the DHS-114 (Deductible Notice), DHS-114A (Deductible Report), or the MSA-Pub. 617 (Medicaid Deductible Information). See Exhibit A, p. 1 and BEM 545, pp. 13-14. Second, the AHR argued that BEM 545 policy does not comply with the federal regulations, specifically, 42 Code of Federal Regulations (CFR) 435.831(h) – order of deductions. The AHR indicated that the Department fails to conform to the order of deduction policy notated in 42 CFR 435.831(h).

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, p. 37. The ALJ issues a final decision unless:

- The ALJ believes that the applicable law does not support DHS policy.
- DHS policy is silent on the issue being considered.

BAM 600, p. 37. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600, p. 37.

Except for MA client eligibility only, if a presiding ALJ believes an MA policy at issue in a given case does not conform with federal or state law, the ALJ issues a recommended decision within 20 days of the hearing date and additional steps are taken as indicated in BAM 600. See BAM 600, pp. 37-38.

Based on the foregoing information and evidence, this ALJ believes the MA policy at issue (BEM 545 – expenses reported after coverage authorized) does conform with federal law. A review of 42 CFR 435.831(h) finds that the Department properly conforms with the order of deduction regulation (i.e., chronological order by bill submission date). As such, a recommended decision will not be issued by this ALJ. See BAM 600, pp. 37-38.

Expenses Reported After Coverage Authorized

In this case, Claimant's husband is an ongoing recipient of MA – G2C coverage. See Exhibit 1, pp. 24 and 26. For August 2013, Claimant's husband had MA – G2C coverage with a monthly \$272 deductible. See Exhibit 1, pp. 24 and 26.

On August 22, 2013, Claimant's husband reported three medical expenses with incurred dates of August 12, 2013; August 19, 2013; and August 20, 2013. See Exhibit 1, p. 36. Effective August 20, 2013, Claimant's husband met his deductible based on the medical expenses reported on August 22, 2013. The Department authorized full MA coverage from August 20, 2013 to August 31, 2013 (partial coverage). On October 14, 2013, Claimant's husband reported a medical expense incurred on August 19, 2013. See Exhibit 1, p. 36. The Department did not backdate the coverage to August 19, 2013, as it had already authorized coverage effective August 20, 2013. Thus, the Department did not count the medical expense towards Claimant's husband August 2013 coverage.

At the hearing, the AHR testified that the hospital did submit a Facility Admission Notice on August 21, 2013, but did not keep a copy of it and the AHR does not have any evidence of the submission.

Additionally, as stated above, the AHR indicated this policy is unfair and should be reconsidered by the Department and it presents a hardship for the Claimant's husband who had legitimate expenses that are not being covered. Furthermore, the policy is not located in any of the forms addressed above (i.e., Deductible Notice) and BEM 545 policy does not conform with federal regulations.

A group may report additional expenses that were incurred prior to the MA eligibility begin date you calculated for that month. BEM 545, p. 12. The Department does not alter the MA eligibility begin date if you have already authorized coverage. BEM 545, p.

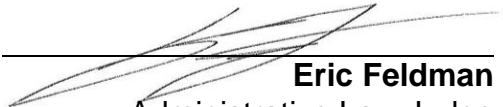
12 and see also Example 7 in Exhibit IV of BEM 545, pp. 28-29. However, any expenses the group reports that were incurred from the first of such a month through the day before the MA eligibility begin date might be countable as old bills. BEM 545, p. 13.

Based on the foregoing information and evidence, the medical expense was reported after MA coverage had been added and the Department properly did not alter the MA eligibility begin date to August 19, 2013, as it had already authorized coverage effective August 20, 2013. The coverage cannot be backdated to August 19, 2013 and this medical expense cannot be counted towards his August 2013 coverage. The AHR argued that a Facility Admission Notice was submitted even before Claimant's husband reported any of his medical expenses in August 2013; however, he failed to produce any evidence of the alleged submission. As such, the Department acted in accordance with Department policy when it did not alter the MA eligibility begin date to August 19, 2013. BEM 545, pp. 12-13 and 28-29.

DECISION AND ORDER

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 acted in accordance with Department policy when it did not alter the MA eligibility begin date to August 19, 2013, as it had already authorized coverage effective August 20, 2013; and Claimant's husband's medical expenses for August 19, 2013 cannot be counted towards his August 2013 coverage.

Accordingly, the Department's MA decision is AFFIRMED.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/2/2014**

Date Mailed: **12/2/2014**

EJF / cl

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 48909-8139

CC:

[REDACTED]