

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-019584
Issue No.: 2004
Case No.: [REDACTED]
Hearing Date: March 30, 2015
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, an in person hearing was held on March 30, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process the claimant's medical bills submitted September 30, 2014?

Did the Department properly process bills in its file for the Claimant for September 2014 and October 2014 and activate MA coverage for October 2014 (Exhibit 1)?

Are the Claimant and his spouse required to be in the same Medical Assistance (MA) fiscal group with the same 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. The Claimant has MA coverage subject to a deductible (spend down) as does his wife, but they have different and separate case numbers. The Claimant and his wife are members of the same medical fiscal group.
2. The Claimant's [REDACTED] case number is [REDACTED]; his wife [REDACTED] case number is [REDACTED].

3. The Claimant sought a determination from the Department regarding the medical bills he submitted on September 30, 2014 seeking MA coverage for the month of October 2014. The Claimant was seeking to meet his deductible for October 2014 (Claimant Exhibit A and Claimant Exhibit B). The Department did not process the bills.
4. The Claimant also provided bills to the Department, contained in the Department case file and submitted by the Department as part of its hearing packet, which the Department conceded were not processed by the Department. These bills cover the period October 2014 and September 2014 (Exhibit 1). The bills are for services provided to Eula Willis, the Claimant's wife and MA fiscal group member. These bills were submitted timely.
5. The Claimant and his wife have the same MA deductible of \$1026.
6. The Department issued a Health Care Coverage Determination Notice on [REDACTED], finding the Claimant James Willis eligible for December 2014 and January 2015 for Medicaid. Exhibit 3
7. The Department did not process the Claimant's bills submitted on [REDACTED], [REDACTED]. This packet contained old bills (including bills for January 2012 and February 2012, March 2012, May 2012, January 2013, February 2013, April 2013, June 2013 and December 2013, and March 2014, April 2014 June 2014. The bills for September 2014 and July 2014 were submitted within 90 days and are not old bills. The June 2014 bill (with a service date of [REDACTED]) was not submitted until [REDACTED] when submitted on [REDACTED] was not submitted within 90 days of the service, thus it is considered an old bill. Exhibit 2, Claimant Exhibit A
8. The Claimant requested a hearing on [REDACTED] protesting the Department's actions with regard to the processing of his medical bills and the Department's failure to place the Claimant and his wife in the same MA fiscal group.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, the Claimant and his wife are ongoing recipients of Medical Assistance subject to a deductible due to excess income. The Claimant has requested a hearing to determine why the Claimant did not meet the deductible for the month of October 2014 based upon the medical bills submitted by the Claimant on September 30, 2014 and the bills in the Department's files for October 2014 which were never processed. Department policy provides that income eligibility exists for all or part of the month tested when the medical group's allowable medical expenses equal or exceed the fiscal group's excess income. BEM 545 (January 2015), p. 2. 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. 10.

The issue in this case concerns whether the Department properly applied policy found in BEM 545 which provides rules to determine when a Claimant meets his excess income amount and thereby meets his deductible, and thus is eligible for full Medicaid coverage. BEM 545 provides:

The processing of medical bills is necessary to determine Group 2 MA income eligibility to determine if there is excess income, or whether the spend down is met and whether the medical expense is allowable. BEM 545 (January 1, 2015), p. 1. The fiscal group's monthly excess income is called a deductible amount. To meet a deductible, a MA client must report and verify allowable medical expenses (defined in Exhibit 1) that equal or exceed the deductible amount for the calendar month being tested. The group must report expenses by the last day of the third month following the month in which client wants MA coverage. BEM 545, p. 11. The Department is to add periods of MA coverage each time the group meets its deductible. BEM 545, p.11.

September 2014 and October 2014 Medical Bills (Exhibit 1)

In this case the Department did not present any proofs regarding the medical bills contained in its file for medical expenses incurred for September and October 2014 by Claimant's wife, other than the bills themselves. The Department also conceded the bills in Exhibit 1 were never processed. The bills were not date stamped by the Department and no evidence was presented that they were untimely, thus the medical bills contained in Exhibit 1 must be considered timely submitted and applied accordingly for the month the eligible medical expenses were incurred. The Department must process each bill within the requirements for medical bill processing, and determine

when the services were incurred, the amount of medical expense, and whether at the time submitted the services are eligible medical expenses. BEM 545 p. 14-15.

To determine whether a client is income eligible for MA for months with excess income, the Department must consider the expenses in the following order: (1) old bills (which excludes bills previously used to establish MA income eligibility or bills incurred on a date the person had MA coverage), (2) personal care services, (3) long-term care expenses, (4) inpatient hospitalizations, and (5) all remaining medical expenses. BEM 545, pp. 3-4, 11, 19. The Department activates coverage for the client when the expenses, considered in the order listed, equal or exceed the deductible amount. BEM 545, pp. 3-4.

Income eligibility exists for the entire month when **one** of the following equals or exceeds the group's excess income for the month tested: old bills, personal care services, hospitalization, and long-term care. BEM 545, pp. 1, 4. If expenses for one of those categories does not equal or exceed the group's excess income for the month tested, income eligibility begins either the exact day of the month the allowable expenses exceed the excess income or the day after the day of the month the allowable expenses equal the excess income. BEM 545, p. 1. The client must report expenses by the last day of the third month following the month in which she wants MA coverage. BEM 545, p. 11.

Contained in the hearing file were Medical bills covering October 2014 which were never processed by the Department. Exhibit 1. There was no evidence presented by the Department why the bills were not processed, or that they were not submitted timely, thus it is determined that these bills must be processed for October 2014 and it is determined that they were timely submitted within 90 days of the incurred date. In addition, based upon a review of the bills for October 2014, it is determined that the Claimant's wife Eula was hospitalized in that month and thus eligibility exists for the entire month. See Exhibit 1 p. 3 of 8. The total of one of the bill was \$28,852 which was a hospital admission for service date of [REDACTED] and indicates an account balance remaining of \$1,280.19 which meets the \$1062 deductible for October 2014. All other eligible medical bills submitted for October 2014 must also be applied to reduce the amount of the Claimant's deductible that the Claimant is required to meet for October as well as any unused bills from September 2014 as explained below.

September 30, 2014 medical bill submission – Old Bills

The Claimant also submitted a packet of bills dated [REDACTED] which were never processed by the Department (Claimant Exhibit A). The Department provided a one page Medical Expense Summary which was presented by the Department as evidence of all the bills it processed for the Claimant's MA fiscal group (Exhibit 2). This was the only evidence presented by the Department to demonstrate which medical bills were processed. Based upon this list, none of the bills on the list were the bills contained in the package submitted by the Claimant on [REDACTED]. Thus it is

determined based upon the evidence submitted that these bills were never processed and must be processed.

When processing old bills the Department is required to process the bills presented in the following order:

When processing the old bills for September 2014 contained in the Claimant's September 30, 2014 submittal, the Department must total old bills and determine for each of the bills the following:

Medical expenses listed under **Medical Services** in "EXHIBIT I can be used as **old bills** if they meet **all** of the following criteria:

- The expense was incurred in a month prior to the month being tested.
- During the month being tested:
 - The expense is/was still unpaid, **and**
 - Liability for the expense still exists (existed).
- A third party resource is **not** expected to pay the expense.
- The expense was **not** previously used to establish MA income eligibility.
- The expense was one of the following:
 - Incurred on a date the person had no MA coverage.
 - **Not** an MA covered service.
 - Provided by a non-MA enrolled provider.
- A member of the medical group incurred the expense. This includes expenses incurred by a deceased person if both:
 - The person was a medical group member's spouse or unmarried child under 18.
 - The medical group member is liable for the expense.

Note: An expense which has been turned over for collection is still a medical expense until the provider has written off the expense.

You must give groups that have excess income the opportunity to verify old bills before you start an active deductible case. BEM 545 (July 1, 2013) p. 19.

If the old bills equal or exceed the excess income, the total of old bills are subtracted from the excess income and any excess over and above the excess income amount of \$1062 are “unused old bills”. **Income eligibility exists for the entire month tested (September 2014)**. The Department must also consider as September is the processing month the provisions found in NON L/H FUTURE MONTH. BEM 545, p. 3.

NON L/H FUTURE MONTH provides: “If the old bills equal or exceed the excess income go to ELIGIBILITY BASED ON OLD BILLS to determine whether one or more further month(s) of income eligibility exists”. BEM 545, p.6.

To determine if old bills can be used to **delay** deductible for one or more future months based on allowable old bills, the **unused old bills** (the amount the old bills exceed the excess income amount) equal or exceed the groups excess income. The old bills (unused) are divided by the group’s excess income. Any fractions are dropped. If the result is more than one month, MA may be authorized for additional months, but not more than a total of six future months. If the **unused** old bills are **less** than the excess income once the deductible is met, the old bill amount is applied to the future month’s deductible which in this case would be October 2014. BEM 545, p. 9. The old bills are first applied to September 2014, the processing month and any unused bills to the future month, October 2014.

MA Fiscal Group Composition

The Claimant presented credible testimony that he and his wife were each required to fill out redeterminations and had separate case numbers. The Department did not dispute that there were two case numbers separately assigned to the Claimant and his wife and could not offer an explanation for this circumstance. Based upon Department policy, clearly the Claimant and his wife are in the same MA fiscal group and both their medical expenses must be used to determine if the group’s deductible is met. Once the deductible is met and the group no longer has excess income, both group members are eligible. BEM 545 provides:

Income eligibility exists for the entire month tested when the group does **not** have excess income. BEM 545 p. 3.

Clearly the Department must consolidate the Claimant’s and his spouse’s cases and process the case properly, which requires that that be treated as a MA fiscal group of 2.

BEM 545 requires that only persons living with on another can be in the same group and the only income that may be considered is the person’s own income and the following persons who live with the individual, which includes the individual’s spouse. BEM 211(January 1, 2015) p.2, 3 and 5.

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 bills in its file for October 2014 and activate MA eligibility for October 2014; and

did not act in accordance with Department policy when it failed to process the medical bills submitted by the Claimant to the Department on [REDACTED]; and

did not act in accordance with Department policy when it created two separate cases for the Claimant and his spouse and failed to place them in the same MA fiscal group.

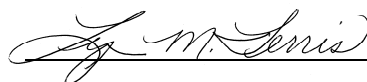
DECISION AND ORDER

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 the medical bills for September and October 2014 in accordance with Department policy and activate full MA coverage for October 2014 in accordance with Department policy.
2. The Department shall process the medical bills submitted to it by the Claimant on September 2014 and determine whether the Claimant's spend down has been met in accordance with this Decision and Department policy and activate coverage accordingly.
3. The Department shall place the Claimant and his wife in the same MA fiscal group and consolidate them under one case number.
4. The Department shall provide the Claimant written notice of the Department's actions and its determinations as required by this Decision and in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/28/2015**

Date Mailed: **7/28/2015**

LMF / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

