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

IN THE MATTER OF:

[redacted]

Reg. No.: 15-003539
Issue No.: 2001
Case No.: [redacted]
Hearing Date: April 23, 2015
County: Wayne-District 18 (Taylor)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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, a three way telephone hearing was held on April 23, 2015, from Detroit, Michigan. Participants on behalf of Claimant included his Authorized Hearing Representative (AHR), [redacted], from [redacted] Participants on behalf of the Department of Health and Human Services (Department) included [redacted], Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. In January 2014, Claimant applied for MA benefits, retroactive to November 2013.

2. The Medical Review Team (MRT) determined that Claimant was not disabled for MA purposes and the Department denied Claimant's MA application.

3. On October 16, 2014, an administrative hearing was held with respect to Claimant's January 2014, application for MA benefits, retroactive to November 2013.

4. The Hearing Decision associated with the above referenced administrative hearing was mailed on October 31, 2014, and the Administrative Law Judge (ALJ) found that the Department improperly determined that Claimant was not disabled for MA

purposes. The ALJ found that Claimant was disabled for MA purposes and ordered the Department to initiate certain actions with respect to Claimant's MA benefits.

5. On November 5, 2014, the Department sent L&S a Health Care Coverage Determination Notice advising them that Claimant was eligible for MA for November 1, 2013, to November 30, 2013, and that for January 1, 2014, ongoing; Claimant was eligible for MA with a monthly deductible. (Exhibit 1, pp. 8-10)

6. On December 9, 2014, L&S submitted itemized hospital bills to the Department to verify that Claimant had incurred sufficient expenses to meet his deductible for the month of March 2014.

7. The Department failed to process the medical bills and apply them towards Claimant's deductible.

8. On February 19, 2015, L&S filed a hearing request on behalf of Claimant disputing the Department's actions.

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.

Additionally, Group 2 MA income eligibility exists for the calendar month tested when there is no excess income or the allowable medical expenses (defined in Exhibit 1) equal or exceed the excess income. When old bills or the cost of hospitalization equals or exceeds the group's excess income for the month tested, income eligibility exists for the entire month. When old bills or the cost of hospitalization does not equal or exceed the group's excess income for the month being 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 (July 2013), p. 1.

The Department is to determine Group 2 MA income eligibility for each non-L/H past and processing month with excess income. BEM 545, p. 3. The processing month is the

calendar month during which the specialist determines MA eligibility and the past months are the calendar months for which MA eligibility is being determined that is before the processing month. BPG (July 2014), pp. 46, 51. With respect to old bills, the Department is to compare the medical group's allowable old bills (defined in Exhibit 1B) to the excess income. If the client has old bills and they total less than the excess income, the Department is to subtract the old bills to get the remaining excess income and then refer to the policy in BEM 545 (pages 2-4) to determine if the client is eligible for any other allowable expenses such as personal care services, inpatient hospitalizations and other medical expenses. If the client's old bills equal or exceed the excess income, the Department is to subtract the excess income from the allowable old bills to get the unused old bills. If the month being tested is a past month, income eligibility will exist for the entire month and if the month being tested is the processing month, the Department shall refer to the Non-L/H Future month section of BEM 545. BEM 545, pp.2-4. The Department must give groups that have excess income the opportunity to verify old bills prior to starting an active deductible case. BEM 545, p. 19.

If after applying the above policy the client has excess income, he may still be eligible for Group 2 MA if sufficient allowable medical expenses are incurred through a deductible process. BEM 545, p. 10. The Department will open an MA case 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. These cases are called active deductible cases and each calendar month is a separate deductible period, with MA coverage added each time the group meets its deductible. BEM 545, p. 10. For applicants however, the first deductible period cannot be earlier than the processing month. For recipients of MA, the first deductible period is the month following the month for which MA coverage is authorized. BEM 545, pp. 10-11.

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.

In this case, the Department testified that because L&S did not submit verification of Claimant's March 2014 medical expenses until December 9, 2014, the expenses were untimely and could not be applied towards Claimant's deductible as they were not received within three months. The Department stated that in order for the medical expenses to be applied to Claimant's deductible and his MA coverage for March 2014 to be activated, L&S was required to submit the expenses by June 30, 2014. While the Department's assertion may be true for clients with active deductible cases, it does not appear to take into consideration that Claimant was not approved for MA until November 5, 2014, when the Health Care Coverage Determination Notice was issued after the prior administrative hearing was held and the ALJ determined the Claimant was disabled and eligible for MA going back to the retro period.

Claimant's AHR argued that because the first deductible period cannot be prior to the month of application processing, the Department was required to request verification of and process the medical expenses for all months prior to the processing month to determine Claimant's income eligibility for MA. Claimant's AHR also asserted that because they were not notified that Claimant was approved for MA with a deductible for the month of March 2014 until the November 5, 2014, Health Care Coverage Determination Notice was issued, the medical expenses that were submitted on December 9, 2014, were timely and should have been processed.

Therefore, under the facts in this case, the Department should have applied the non-L/H past and processing month policy referenced above to determine Claimant's income eligibility for Group 2 MA for the month of March 2014 by applying his old bills or costs of hospitalization, prior to making the determination he was subject to a deductible and finding that the medical bills were not timely submitted.

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 medical expenses.

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. Process any medical expenses incurred and apply them to Claimant's MA case to determine Claimant's income eligibility for MA for the past and processing months;

2. Process any medical expenses and apply them towards deductible for the month of March 2014;

3. Issue supplements to Claimant for any MA benefits that he was entitled to receive but did not from March 2014, ongoing; and

4. Notify Claimant and L&S of its decision in writing.

Zainab Baydoun

Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/18/2015**

Date Mailed: **5/18/2015**

ZB / tlf

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: [redacted]