

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-006297
Issue No.: 2001
Agency Case No.: [REDACTED]
Hearing Date: June 04, 2015
County: Jackson

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 telephone hearing was held on June 4, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], [REDACTED], Authorized Hearing Representative (AHR). Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Assistance Payments Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine Claimant's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. On September 20, 2014, a MA application was filed on Claimant's behalf by an Authorized Representative (AR).
2. On December 9, 2014, a Health Care Coverage Determination Notice was issued to the AR stating Claimant was approved with a monthly deductible of \$ [REDACTED] for September 2014, \$ [REDACTED] for October 2014, and \$ [REDACTED] for November 2014 and ongoing.
3. On January 22, 2015, the AR submitted documentation of medical expenses for dates of service in September 2014.
4. The Department has not considered the September 2014 medical expenses toward Claimant's monthly deductible because it was submitted beyond the last day of the third month following the month in which the group wants MA coverage.

5. On April 15, 2015, a hearing request was filed on Claimant's behalf contesting the Department's determination.

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.

The Department is to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130, (October 1, 2014) p. 1.

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 1, 2015), pp. 2-3.

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. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. 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. BEM 545, p. 10-11.

However, old bills can also be utilized toward meeting a deductible. BEM 545, pp. 9-10, 12-13, and 26. Similarly, the section of the Health Care Coverage Determination Notice addressing Information About Deductible Amounts, in part states:

Enclosed is a form (Deductible Report) for you to list medical expenses as you incur them. List medical expenses that have not been reported. List those expenses no matter how long ago the medical services were provided. When the medical expenses are equal to or more than your deductible amount, return the form to your specialist immediately to determine your eligibility.

(Department Exhibit A, p. 21) underline added by ALJ.

On September 20, 2014, a MA application was filed on Claimant's behalf by an AR. On December 9, 2014, a Health Care Coverage Determination Notice was issued to the AR stating Claimant was approved with a monthly deductible of \$ [REDACTED] for September 2014, \$ [REDACTED] for October 2014, and \$ [REDACTED] for November 2014 and ongoing. On January 22, 2015, the AR submitted documentation of medical expenses for dates of service in September 2014.

The Department asserted that the September 2014 medical expenses were not timely submitted. Therefore, the Department has not considered the September 2014 medical expenses toward Claimant's monthly deductible for that month. The Department relied upon the above cited BEM 545 provision that "the group must report expenses by the last day of the third month following the month in which the group wants MA coverage."

As noted by Claimant's AHR, BEM 545, pp. 10-11 also states:

The first deductible period:

- Cannot be earlier than the processing month for applicants
- Is the month following the month for which MA coverage is authorized for recipients.

Therefore, the AHR asserts that the Department should have requested documentation of medical expenses when the application was being processed to determine eligibility for all months that occurred prior to the month of application processing. The AHR noted that when the October 21, 2014, Verification Checklist was issued, the Department did not request any information regarding medical expenses. (Claimant Exhibit 1, pp. 3-4)

Generally, the BEM 545 policy directs that medical expenses are to be reported by the last day of the third month following the month in which the group wants MA coverage. However, the policy appears to presume this will only apply to MA eligibility for the processing month and ongoing months. The policy appears to presume that the Department would have considered existing medical expenses at the time the application is being processed because the policy specifies that the first deductible period cannot be earlier than the processing month for applicants. Therefore, the Department should have requested needed information regarding all eligibility factors, including medical expenses, for all months that MA eligibility was being determined for prior to the processing month. There was no evidence that the Department requested information regarding medical expenses for any month prior to the December 9, 2014, determination.

Further, the December 9, 2014, a Health Care Coverage Determination Notice advised Claimant to list medical expenses that have not been reported, no matter how long ago the medical services were provided. (Department Exhibit A, p. 21) It appears that this was the first time the Department requested any information regarding existing medical expenses in this case. However, even if the Department had properly requested information regarding medical expenses at the time the application was processed, this portion of the determination notice would still be in accordance with other BEM 545

policy provisions to consider old medical bills reported after coverage has been authorized toward meeting the deductible for later months. There was no evidence that the Department has taken any steps to consider the reported September 2014 medical expenses that were reported on January 22, 2015.

The BEM 545 policy does not support the Department's failure to consider the September 2014 medical expenses.

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 determined Claimant's eligibility for MA.

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. Re-determine Claimant's eligibility for MA retroactive September 2014 in accordance with Department policy, to include consideration of medical expenses incurred during months prior to the processing month.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **6/30/2015**

CL/jaf

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:

