

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-006441
Issue No.: 2001
Case No.: ██████████
Hearing Date: June 15, 2015
County: Wayne-District 15 (Greydale)

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 telephone hearing was held on June 15, 2015, from Detroit, Michigan. Participants on behalf of Claimant included her Legal Guardian/Authorized Hearing Representative (AHR), ██████████ ██████████ and her caregiver, ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

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. Claimant was an ongoing recipient of MA benefits under the G2S program. (Exhibit A)
2. Claimant has been subject to a monthly deductible since June 2014. (Exhibit A)
3. Claimant was receiving personal care services in her home through ██████████ ██████████. (Exhibit 1)
4. Claimant's Legal Guardian and Caregiver submitted medical expenses and invoices from ██████████ to the Department on Claimant's behalf to verify that Claimant had incurred sufficient expenses to meet her deductible for the

period between June 1, 2014, and March 31, 2015, and to show that she was income eligible for MA.

5. On April 3, 2015, Claimant's Legal Guardian requested a hearing on her behalf, disputing the Department's actions with respect to Claimant's MA case.

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.

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, personal care services, the cost of hospitalization, or long term care equals or exceeds the group's excess income for the month tested, income eligibility exists for the entire month. When old bills, personal care services, the cost of hospitalization, or long term care do 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 and January 2015), p. 1.

The Department is to determine Group 2 MA income eligibility for each non-L/H past, processing, and future month with excess income pursuant to the policy found in BEM 545. BEM 545, pp. 3-7. In Claimant's case, personal care services and allowable expenses are the applicable costs that need to be processed and applied to determine Claimant's monthly eligibility for MA, and if one exists, her monthly deductible amount. The personal care services must be services related to the activities of daily living, among those allowable by policy and must also be verified. BEM 545, pp. 16, 20-22.

If after applying the above policy the client has excess income, she 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 a 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.

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.

Claimant's Legal Guardian requested a hearing disputing the Department's failure to process medical expenses and personal care services expenses incurred by Claimant and submitted to the Department to show that Claimant should be eligible for MA and that she had met her monthly deductible since June 2014. Claimant's AHR and Caregiver testified that Claimant receives assistance with personal care services in her home through a contractor, [REDACTED]. Claimant's AHR and Caregiver testified that invoices from [REDACTED], as well as other medical expenses such as prescription bills, doctor bills, and hospital bills, have been submitted to the Department and the Department has failed to process the expenses and apply them towards Claimant's monthly deductible. Claimant's Caregiver stated that in September 2014 she submitted documentation to show that for the months of June 2014, July 2014, and August 2014, Claimant incurred sufficient expenses to reach her deductible and that she had personal care services. Claimant's Caregiver stated that for each of the months following September 2014, she provided the documentation to the Department on a monthly basis. It was established that the period at issue is June 2014 through March 2015.

The Department did not present any evidence in support of its case other than an eligibility summary showing that Claimant was a recipient of MA benefits under the G2S program subject to a monthly deductible. (Exhibit A). Although the Department representative stated that the Department did not have any record of any medical expenses or invoices submitted by Claimant's representatives, the Department's hearing summary is in direct conflict with that statement. According to the hearing summary, the Department did receive Claimant's bills and based on the bills submitted, Claimant does not meet her deductible until the end of the month, thereby, making her ineligible for MA for the entire month. The Department representative present for the hearing was unable to explain which bills, if any, were considered and how they were applied to Claimant's deductible or if they were considered in determining Claimant's income eligibility for MA.

For non-L/H past and processing months, the Department is first to determine if the costs of Claimant's personal care services result in income eligibility and if they do not,

the Department is to determine whether Claimant's allowable medical expenses are sufficient to result in income eligibility MA for the month. BEM 545, pp. 3-5. If the allowable expenses are less than the remaining excess income and the month being tested is a past month, income eligibility does not exist for this month; however, if the month being tested is a processing month, the client will have a deductible. If the allowable expenses are equal to or more than the remaining excess income, income eligibility exists starting on: day after the day the expenses equaled the excess income or the exact day the expenses exceeded the excess income. BEM 545, pp. 4-5. If the month being tested is a non-L/H future month, the Department is first to determine if the costs of Claimant's personal care services result in income eligibility and if they do not, the client will have a deductible that can be met with sufficient allowable expenses, as referenced above. BEM 545, p. 6.

Based on the evidence presented at the hearing, the Department has failed to establish that it properly applied the above referenced policy when determining Claimant's income eligibility for MA and whether she met her deductible. The Department failed to establish that it appropriately considered Claimant's personal care services and other allowable expenses in making its determination that Claimant was not eligible for MA coverage for the months at issue.

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 processed Claimant's MA benefits.

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 personal care services and medical expenses incurred and apply them to Claimant's MA case to determine Claimant's income eligibility for MA from June 1, 2014, ongoing;
2. Process any medical expenses and apply them towards Claimant's remaining deductible, if any, from June 1, 2014, ongoing;

3. Pay Claimant's provider and supplement Claimant for any MA benefits that she was eligible to receive but did not from June 1, 2014, ongoing; and
4. Notify Claimant and her AHR of its decision in writing.



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

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

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.

