

**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.: 15-008021
Issue No.: 2001
DHHS Case No.: [REDACTED]
Hearing Date: July 14, 2015
County: Ingham

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 July 14, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant; and [REDACTED] [REDACTED] daughter-in-law. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly determine Claimant's Medical Assistance (MA) eligibility for November 2014?

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 has a monthly spend down, or deductible, of \$ [REDACTED] for her Medicaid (MA G2S) benefits.
2. On January 7, 2015, a Health Care coverage Determination Notice was issued to Claimant stating MA was approved for December 2014 with Claimant being responsible for paying for services rendered on [REDACTED], with a client liable amount of \$ [REDACTED]
3. On January 13, 2015, Claimant provided documentation of medical expenses from November and December 2014 dates of service to the Department.

4. On May 11, 2015, Claimant filed a hearing request regarding unpaid medical bills.

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.

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.

A medical expense must be incurred for a listed medical service. Except for some transportation, the actual charge(s) minus liable third party resource payments counts as an allowable expense. BEM 545, p. 15.

Third party resource payments are payments from any liable third party for medical care. They include payments Medicare, other health insurers or any liable third party made or will make. BEM 454, p. 17.

Payments made by any third party cannot be included as part of the client's medical expense for any of the listed medical service(s). Therefore, the Department must try to find out if any liable third party resource payment has been, or will be made to determine a client's costs. The Department is to count only the client's cost as a medical expense. However, the Department is not to delay the eligibility determination just because third party payment information is not readily available. BEM 545, p. 18.

In this case, a Health Care coverage Determination Notice was issued to Claimant on January 7, 2015, stating MA was approved for December 2014 with Claimant being responsible for paying for services rendered on [REDACTED], with a client liable amount of \$ [REDACTED] (Department Exhibit A, pp. 11-12) Therefore, the Department must have received other verification of this [REDACTED] medical expense prior to Claimant's January 13, 2015, submission of bills for November and December 2014 dates of service. (Department Exhibit A, pp. 9-10) Because the December 2014 MA coverage was approved, it is only necessary to review the MA eligibility determination for November 2014.

There was no evidence that written notice of a MA eligibility determination for November 2014 was issued to Claimant. Accordingly, the May 11, 2015, hearing request is considered timely.

The Hearing Facilitator explained that MA could not be approved for November 2014, because the medical bill submitted for the November 2014 dates of service showed that Claimant was only responsible to pay \$ [REDACTED] (Department Exhibit A, p. 9) Therefore, the verified medical expenses did not meet or exceed Claimant's monthly deductible amount of \$ [REDACTED] The Hearing Facilitator confirmed that Claimant has Medicare as her primary insurance. Therefore, the portions of the medical expenses that have been paid, or can be expected to be paid, by Medicare cannot be included toward meeting Claimant's monthly MA deductible. This is in accordance with the above cited BEM 545 policy.

Claimant testified that the deductible process was never explained to her like it should have been. Claimant also noted that she does not know what the medical bills are going to be until they are eventually sent to her. For example, the bill for the [REDACTED], dates of service was issued to Claimant on [REDACTED]; and the bill for the December [REDACTED] date of service was issued to Claimant on January [REDACTED]. Claimant also stated a supervisor told her the bills would be paid; otherwise, she would not have submitted them.

This ALJ understands that the difficulties with the deductible process, particularly when Medicaid is a secondary insurance. Medical bills will almost always be delayed while the medical provider awaits claim processing through the primary insurance, such as Medicare, to determine the outstanding balance for the medical services.

In reviewing the medical bill for the [REDACTED], dates of service, it appears that most of the charges have already been covered by Medicare. The medical provider showed payments and adjustments totaling \$ [REDACTED] for the dates of service. (Department Exhibit A, p. 9) The BEM 545 policy specifies that payments made by, or that will be made by, any third party, including Medicare, cannot be included as part of Claimant's medical expense. Therefore, the most that could potentially be counted toward Claimant's MA deductible for November 2014 is the remaining total account balance was \$ [REDACTED] However, the medical bill shows this total account balance is comprised of \$ [REDACTED] as insurance pending and \$ [REDACTED] as Claimant's portion to pay.

(Department Exhibit A, p. 9) If the portion that is listed as insurance pending portion is also expected to be paid by Medicare, it should also be excluded. Either way, the total account balance of \$ [REDACTED] or just the \$ [REDACTED] portion showing as the amount Claimant is reasonable for paying, is less than Claimant's monthly MA deductible amount of \$ [REDACTED]. Therefore, income eligibility has not been met for November 2014 MA coverage.

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 determined Claimant's MA eligibility for November 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Mailed: **7/23/2015**

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:

