

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009204
Issue No.: 2007
Case No.: [REDACTED]
Hearing Date: July 20, 2015
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 20, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR) [REDACTED], Appeals Specialist, from [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included [REDACTED], Hearings Facilitator.

ISSUE

Did the Department fail to process form MSA-1038, Request for Exception to the Twelve Month Billing Limitation for Medical Services, regarding Claimant's minor child Medical Assistance (MA) billings for services performed in March of 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. On [REDACTED], Claimant's authorized representative (AR), who is also the AHR, applied for MA benefits on behalf of the Claimant and her minor child and also sought retroactive coverage to March 2014. See Exhibit A, pp. 7-14.
2. In the application, Claimant indicated that she is a U.S. citizen or U.S. national. See Exhibit A, p. 8. Claimant also reported that her minor child is a U.S. citizen or U.S. national and indicated that her minor child is a Canadian citizen and has lived in the U.S. since 2003. See Exhibit A, p. 10.
3. The minor child's MA benefits have been certified and are activated.

4. The Department has not processed a MSA-1038, Request for Exception to the Twelve Month Billing Limitation for Medical Services (hereinafter referred to as “twelve month billing exception form”), regarding the minor child’s MA billings for services performed in March of 2014.
5. On [REDACTED], Claimant/AHR filed a hearing request, protesting the Department’s action. See Exhibit A, pp. 2 and 15-17.

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.

Enrolled providers are aware of the covered and excluded services available to MA beneficiaries. BAM 402 (January 2014, July 2014, October 2014, and January 2015), p. 10. Providers must use MA billing procedures to obtain payment for services performed. BAM 402, p. 10. Billings should be submitted within 12 months from the date of service. BAM 402, p. 10

Exceptions to the 12 month billing policy can be made if the delay is caused by agency error or as a result of a court or administrative hearing decision. BAM 402, p. 10. Agency errors are limited to:

- Delayed Bridges coding, including level of care changes.
- MRT review.
- Administrative review.
- Delayed eligibility determination.

BAM 402, p. 10.

Exceptions cannot be granted due to provider delays in billing or failure of a recipient or provider to obtain prior authorization. BAM 402, p. 10

Form MSA-1038, Request for Exception to the Twelve Month Billing Limitation for Medical Services, is an internal document and must be completed by local office staff to begin the exception process. BAM 402, p. 10. The completed MSA-1038 should be sent to: 1038@michigan.gov. BAM 402, p. 10

A family independence manager, district manager, or other office designee must be copied on the email. BAM 402, p. 10. A copy of the hearing decision is no longer required; however, the hearing registration number must be indicated on the MSA-1038. BAM 402, p. 10

Michigan Department of Community Health (MDCH) will notify the specialist within 30 days of the decision. BAM 402, p. 10. If approved DHHS will notify providers to bill Medicaid as usual but to enter in the comments section of the claim, "MSA 1038 approval on file." BAM 402, p. 10

In this case, the AHR's hearing request stated that DHHS failed to certify MA coverage and to file a corrected MSA-1038 exception to DCH for approval due to the 12 month billing limitation. See Exhibit A, p. 2. Furthermore, the hearing request indicated that due to the delay in activating MA coverage, an MSA-1038 exception to the 12 month billing limit is required in order for providers to bill for services rendered from [REDACTED]. See Exhibit A, p. 2. During the hearing, though, the AHR testified that this was the improper dates of services and he was only concerned for the period of [REDACTED] 014. Additionally, the AHR testified that the minor child's MA benefits have been activated/certified and the AHR is just requesting that the Department process the twelve month billing exception.

In response, the Department agreed with the AHR's testimony that the minor child's MA benefits have been certified. The Department argued, though, that it first had to obtain verification of the minor child's citizenship. Subsequent to the hearing request, the Department sent the AHR/Claimant a Verification Checklist (VCL) on [REDACTED] and it was due back by [REDACTED]. See Exhibit A, pp. 3-6. The VCL requested verification of the minor child's U.S. citizenship. See Exhibit A, p. 5. The Department testified that it received the minor child's Canadian birth certificate and his social security card, but the card indicated work authorization only. The AHR indicated that the verifications are still pending.

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, the Department certifies benefits. BAM 130 (January 2014, April 2014, July 2014, and October 2014), p. 4. Once the case has been opened and coverage entered in the Department's system (Bridges), verification of citizenship must be completed. BAM 130, p. 4.

Attempt to verify citizenship through a data match such as the Social Security Administration or a DCH vital records match. BAM 130, p. 4. MAGI- related applicants will have citizenship and identity verified if the application comes to DHS via the

Federally Facilitated Marketplace (FFM) or MAGI rules engine. BAM 130, p. 4. If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary. BAM 130, p. 4

Allow the beneficiary 90 days to provide the required verifications. BAM 130, p. 4. If no documentation is provided at the end of the 90 days, the beneficiary should be disenrolled from Medicaid within 30 days. BAM 130, p. 4

Beneficiaries must be notified of the pending closure and the reason for the closure. BAM 130, p. 4. If documentation is received prior to the closure date the coverage must continue. BAM 130, p. 4

Additionally, BEM 225 policy goes further in-depth regarding citizenship/alien status. See BEM 225 (October 2014), pp. 1-37.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it failed to process the twelve month billing exception for the minor child's services rendered in March of 2014. Even though the VCL request is subsequent to the hearing request, the undersigned must address policy regarding citizenship verification for Medicaid. See BAM 130, p. 4. As stated above, policy states that when an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, the Department certifies benefits. See BAM 130, p. 4. In the application, the minor child (an applicant for Medicaid) claimed to be a U.S. citizen or U.S. national. See Exhibit A, p. 10. Moreover, the Department did not dispute that the minor child met all other eligibility factors and that the minor child's MA benefits had been certified. Because the minor claimed to be a U.S. citizen or U.S. national, the minor child met all other eligibility factors, and the benefits had been certified, the Department should have then processed the twelve month billing exception. The undersigned finds the Department's argument improper that it has to await verification of citizenship to process the twelve month billing exception because verification of citizenship occurs after the case is open and coverage is entered in the system. See BAM 130, p. 4 (Once the case has been open and coverage entered in the Department's system (Bridges), verification of citizenship must be completed). Policy indicates that once coverage is open and active, then the Department will begin verification of citizenship and if such verification is not obtained, then possible MA closure will occur. See BAM 130, p. 4. But in regards to minor child's case, there is no dispute that coverage is certified, therefore, the Department is ordered to process the twelve month billing exception for this benefit period. See BAM 402, p. 10. The undersigned will not address the issue of whether the minor child provided verification of citizenship as it occurred subsequent to the hearing request and it is a pending issue.

DECISION AND ORDER

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 form MSA-1038, Request for Exception to the Twelve Month Billing Limitation for Medical Services, regarding Claimant's minor child Medical Assistance (MA) billings for services performed in March of 2014.

Accordingly, the Department's MA 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 form MSA-1038, Request for Exception to the Twelve Month Billing Limitation for Medical Services, regarding Claimant's minor child MA billings for services performed in March of 2014 in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/23/2015**

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

EF / 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:

