

4. At the time of Administrative Law Judge Lack's decision, the non-medical eligibility issues had not been resolved and, subsequently, it was found that Claimant was eligible but with a deductible.
5. The Department cites BEM 545 (January 2015) in denying Claimant's MA benefits for the month of February 2014 because of Claimant's failure to provide documentation of expenses "by the last day of the third month following the month in which the group ..." wants MA coverage.
6. On May 29, 2015, Claimant requested a hearing to protest the Department's failure to provide MA benefits for the month of February, 2014.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and 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.

In this case, the Department imposed a deductible after being ordered by Administrative Law Judge Lack to reinstate Claimant's April 3, 2014, MA application and to determine Claimant's nonmedical eligibility.

The Department complied with the order but argues that, because there is a deductible and Claimant's documentation was not submitted to the Department within 90 days, it is not eligible for coverage. This Department decision ignores the fact that meeting the 90-day limit of BEM 545 would not have been possible in that the Department did not impose the deductible on Claimant's MA case until after the 90-day limit.

In addition, Administrative Law Judge Lack's order includes an order for the Department to supplement for lost benefits (if any) that Claimant was entitled to receive. The Department failed to follow this order and supplement for benefits that Claimant was entitled to receive during the retroactive period.

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 comply with Administrative

Law Judge Lack's March 13, 2015, order to supplement Claimant for lost (retro) 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. Accept documentation of Claimant's retroactive MA expenses and comply with the March 13, 2015, order to supplement for lost benefits.



Michael Bennane
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/19/2015**

Date Mailed: **8/19/2015**

MJB / pf

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]