

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-001830
Issue No.: 2007
Case No.: ██████████
Hearing Date: March 18, 2015
County: Wayne-District 19 (Inkster)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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. After due notice, a 3-way telephone hearing was held on March 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Hearing Facilitator.

ISSUE

Did the Department properly process Claimant's medical expenses to determine whether her Medical Assistance (MA) deductible was met?

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, with MA eligibility subject to a monthly deductible.
2. On January 14, 2015, Claimant faxed to the Department eleven letters, one dated the first of each month between March 2014 and January 2015, signed by Claimant's caregiver, in which the caregiver stated that she provided daily household chore and attendant care services to Claimant at a cost of \$375 weekly, or \$1500 monthly.
3. On January 26, 2015, in response to the Department's request that Claimant submit medical documentation of her need for services, Claimant submitted a letter

from her doctor dated January 26, 2015 that stated that Claimant required home care assistance during her recovery due to multiple medical problems.

4. On February 2, 2015, the Department sent Claimant a Health Care Coverage Determination Notice notifying her that effective March 1, 2015, her MA case would close because she had failed to meet her deductible in any of the previous three months.
5. On February 3 and 13, 2015, Claimant submitted multiple hospital bills to the Department for medical services received between September 2014 and January 2015.
6. Effective March 1, 2015 ongoing, Claimant received MA coverage under the Healthy Michigan Plan (HMP).
7. On February 5, 2015, Claimant filed a request for hearing disputing the Department's actions concerning her MA case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

At the hearing, Claimant clarified that she had requested a hearing in order to have her medical expenses applied to her deductible and to activate MA coverage for remaining expenses. Even though she indicated that she believed that the Department was improperly budgeting her unearned income for long-term disability, she acknowledged that she had not previously reported this change to the Department and stated that she was not challenging the calculation of her MA deductible. She also acknowledged that she was not seeking a hearing concerning the closure of her G2S case effective February 28, 2015 because she had been approved for HMP coverage effective March 1, 2015 ongoing and received ongoing, uninterrupted MA coverage. Although the Department asserted at the hearing that Claimant was not eligible for MA coverage under the HMP program, the evidence at the hearing established that she was actively

receiving HMP coverage as of the hearing date. Claimant was advised that if her HMP coverage changed, she could request a hearing if she disputed the Department's actions.

The hearing proceeded to address the issue of the application of Claimant's medical expenses for hospital services and home health and chore services towards her monthly deductible. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545 (January 2015), p. 11. Department policy provides that, in determining whether a deductible is met, the Department must consider the expenses in the following order: (1) old bills (which excludes bills previously used to establish MA income eligibility or bills incurred on a date the person had MA coverage), (2) personal care services, (3) long-term care expenses, (4) inpatient hospitalizations, and (5) all remaining medical expenses. BEM 545 (January 2015), pp. 3-4, 11, 19. The Department activates coverage for the client when the expenses, considered in the order listed, equal or exceed the deductible amount. BEM 545, pp. 3-4. 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. 11.

At the hearing, Claimant established that on January 14, 2015, she faxed 11 pages to the Department, each page a letter dated the first of the month for each month between March 2014 and January 2015, asserting that personal grooming and home chore services were provided to Claimant on a daily basis at a cost of \$375 weekly, or \$1500 monthly. Each letter was signed by Claimant and the caregiver.

Allowable medical expenses include amounts the MA client incurs for personal care services in his or her home. BEM 545, p. 20. Allowable medical expense for personal care services are (i) services related to activities of daily living, which include eating/feeding, toileting, bathing, dressing, transferring, grooming, ambulation, and taking medication, or (ii) household services provided in the client's home which are essential to the client's health and comfort, which services include personal laundry; meal preparation/planning; shopping/errands; and light housecleaning but exclude heavy housekeeping, yard work, and home repairs. BEM 545, p. 21. Personal care expenses are incurred monthly regardless of when services are paid for. BEM 545, p. 21.

In this case, the letters provided by Claimant's caregiver establish that personal care services were provided to Claimant. At least some of the letters were timely submitted to the Department. The Department alleges that the letter from Claimant's doctor was insufficient to verify Claimant's need for personal care services because it did not specify the duration of need. Under Department policy, a physician (MD or DO) must verify the need for personal care services in the client's home and the estimated duration of need, and at the end of the estimated duration of need, a physician must verify continued need. BEM 545, p. 22. However, there was no evidence in this case that the Department properly explained what verifications were required from the doctor. BAM

130 (October 2014), p. 3. In the absence of such request, the Department cannot rely on the shortcomings of the verification from the doctor to deny processing the personal care services expenses.

Claimant also testified, and the Department confirmed, that she submitted to the Department on February 3 and 13, 2015 several expenses for hospitalizations that occurred from September 2014 to February 2015. If expenses incurred by a qualified MA fiscal group member for one hospital admission equal or exceed the excess income/deductible amount, income eligibility exists for the entire month. BEM 545, p. 4. The Department acknowledged that the medical bills were not processed.

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 Claimant's medical expenses.

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. Allow Claimant to verify her need for personal care services;
2. Process Claimant's medical bills submitted to the Department on January 26, 2015 and February 3 and 13, 2015 to determine whether Claimant met her monthly MA deductible;
3. Activate MA coverage for Claimant for period in which the deductible is met;
4. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/30/2015**

Date Mailed: **3/31/2015**

ACE / 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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]