



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 14, 2016
MAHS Docket No.: 16-004643
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Petitioner'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, an in-person hearing was held on June 14, 2016, from Marquette, Michigan. The Petitioner was represented by [REDACTED] mother. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor. [REDACTED], Eligibility Specialist, appeared as a witness for the Department. [REDACTED], Eligibility Specialist, was present as an observer.

During the hearing proceedings, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-117; additional documentation printed off from the Department's computer system was admitted as Exhibit B, pp. 1-8; and Petitioner's documentation from Community Mental Health was admitted as Exhibit 1, pp. 1-3.

ISSUE

Did the Department properly re-determine Petitioner's eligibility for Medical Assistance (MA) retroactive to December 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 December 11, 2015, a Hearing Decision was issued (MAHS Docket No. 15-017510), ordering the Department to re-determine Petitioner's eligibility for MA

retroactive to December 1, 2014, in accordance with Department policy. (Exhibit A, pp. 8-12)

2. A March 3, 2016, email between the Bridges Resources Center and the Assistance Payments Supervisor notes that for December 2014, the remaining balance from old bills was \$ [REDACTED]; the current medical expenses were \$ [REDACTED]; for a total medical expense of \$ [REDACTED], which did not meet Petitioner's monthly deductible of \$ [REDACTED]. (Exhibit A, p. 5)
3. On March 7, 2016, a Benefit Notice was issued to Petitioner stating Petitioner is not eligible for MA for the month of December 2014 and it was found that he was mistakenly granted MA coverage from December 17-31, 2014. It was noted that all bills submitted were taken into consideration and reviewed by the local Department office and the Bridges Resources Center in Lansing. (Exhibit A, pp. 6-7)
4. The copies of the medical expense verifications the Department submitted for dates of service in December 2014 do not appear to total \$ [REDACTED]. (Exhibit B, pp. 2-8)
5. On March 11, 2016, a Hearing Request was filed on Petitioner's behalf, in part¹ contesting the MA eligibility determinations for December 2014 as well as April-May 2015. (Exhibit A, pp. 2-4)
6. The Assistance Payments Supervisor testified that it appears the medical transportation documentation Petitioner's mother had submitted to the Department was not entered into the re-determined budget for December 2014. (Assistance Payments Supervisor Testimony)

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,

¹ The hearing request also questioned how eligibility was calculated for the months prior to December 2014, but there is no jurisdiction to review any time period prior to December 2014. The December 11, 2015, Hearing Decision ordered a redetermination of MA retroactive to December 2014. Accordingly the case action taken within the 90 days prior to Petitioner's March 11, 2016, Hearing Request, was the March 7, 2016, Benefit Notice addressing the re-determined eligibility determination as of December 2014.

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, (July 1, 2013, and January 1, 2015), pp. 1-3.

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 group with excess income can delay deductible for one or more future months based on allowable old bills. BEM 545, p. 9.

To determine the number of months of MA eligibility based on old bills, the Department is to: divide the total old bills by the group's excess income; drop any fractions; and the result equals the number of months the group may delay deductible. MA can be authorized for the additional months, but not more than a total of six future months. BEM 545, p. 9

Allowable medical expenses includes transportation for any medical reason. BEM 545, p. 16.

In this case, the Department has not provided a copy of a re-determined MA budget for December 2014. Rather, a March 3, 2016, email between the Bridges Resources Center and the Assistance Payments Supervisor was submitted to provide an explanation of the re-determined December 2014, MA eligibility. The email stated that for December 2014, the remaining balance from old bills was \$ [REDACTED]; the current medical expenses were \$ [REDACTED]; for a total medical expense of \$ [REDACTED], which did not meet Petitioner's monthly deductible of \$ [REDACTED]. (Exhibit A, p. 5) However, the copies of the medical expense verifications the Department has submitted for dates of service in December 2014 do not appear to total \$ [REDACTED]. (Exhibit B, pp. 2-8) Petitioner's mother credibly testified that she had also provided additional bills and medical transportation mileage documentation, which was utilized by the Department when it was found that Petitioner had met his deductible for part of December 2014, and MA was approved for December 17-31, 2014. Further, the Assistance Payments Supervisor credibly testified that it appears the medical transportation documentation Petitioner's mother had submitted to the Department was not entered into the re-determined budget for December 2014. (Assistance Payments Supervisor Testimony)

Accordingly, the actions taken by the Department in re-determining Petitioner's MA eligibility retroactive to December 2014 must be reversed and Petitioner's MA eligibility must be re-determined.

It is also noted that the Department did not provide budgets or other documentation addressing the MA eligibility determinations for months after December 2014. This is particularly troubling as the March 11, 2016, Hearing Request, in part, specifically contested the MA eligibility determinations for December 2014 as well as April-May 2015. (Exhibit A, p. 2) The Department did not provide sufficient evidence for this Administrative Law Judge to be able to review the eligibility determinations for any months after December 2014. However, as discussed above, Petitioner's MA eligibility already has to be re-determined retroactive to December 2014, which would include re-determining eligibility for April and May 2015.

Overall, the Department has not presented sufficient evidence to establish that Petitioner's eligibility for MA was re-determined retroactive to December 2014 in accordance with Department policy. Therefore, the Department's determination must be reversed and Petitioner's MA eligibility must be re-determined. It is noted that the testimony of the parties and the limited documentation submitted for this hearing regarding how the Department re-determined Petitioner's MA eligibility in March 2016 indicate that the Department has not retained all of the medical expense verifications that were submitted on Petitioner's behalf, such as the documentation regarding medical transportation mileage. It is understandable that Petitioner's mother does not think it is fair that she should have to provide this documentation to the Department again. Unfortunately, the Department will only be able to re-determine Petitioner's MA eligibility based on the medical expense verifications they have. Accordingly, it would be in Petitioner's best interests for any missing medical expense documentation to be re-submitted to the Department.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it re-determined Petitioner's eligibility for MA retroactive to December 2014.

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. Re-determine Petitioner's eligibility for MA retroactive to December 1, 2014, in accordance with Department policy, which would include allowing an opportunity to re-submit documentation of medical expenses, issuing written notice of the determination and supplementing for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.

CL/mc



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]