



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 13, 2016
MAHS Docket No.: 16-007148
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Petitioner's request for a hearing.

After due notice, a hearing was held on July 7, 2016. Petitioner [REDACTED] appeared on behalf of the Petitioner; [REDACTED], Appeals Review Officer, represented the Department of Health and Human Services (Department or State). Also in attendance was [REDACTED], Department Analyst.

State's Exhibit A pages 1-18 were admitted as evidence.

ISSUE

Did the Department properly determine that it was not responsible for Petitioner's unpaid medical/dental bills?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Petitioner is a Medicaid beneficiary.
2. Effective April 1, 2013, the Medicaid systems shows that Petitioner had medical coverage through the Adult Benefit Waiver (ABW).
3. On April 2, 2013, Petitioner had surgery at [REDACTED].

4. In February 2016, Petitioner sent in a Beneficiary complaint stating that she applied for financial help through [REDACTED] but was denied in April 2013.
5. Petitioner is requesting that Medicaid cover the cost of the surgery.
6. On October 23, 2015, Petitioner received dental services from a provider who was not enrolled as a Medicaid provider.
7. The Problem Resolution Unit sent Petitioner a letter stating that the reason she was receiving a bill is because the provider she went to is not enrolled with the Medicaid program. Medicaid can only make payment to providers that are enrolled with the Medicaid program.
8. On May 13, 2016, the Michigan Administrative Hearings System received a Request for Hearing to contest the Department's determination.
9. On November 25, 2015, a Motion was entered for failure to appear.
10. On March 8, 2016, the motion was placed to set aside a default judgment and the Petitioner withdrew.
11. On June 20, 2016, the Department contacted the office of [REDACTED] who is representing [REDACTED].
12. The Problem Resolution unit (PRU) researched the Medicaid Billing System (CHAMPS) and the provider(s) have not billed Medicaid.
13. The PRU contacted the provider and they stated that the charges were not going to be covered because of the in-patient stay and that was why Petitioner applied for financial help through [REDACTED].
14. On May 3, 2016, the Problem resolution Unit sent Petitioner Notice that the provider was awarded a judgment stating that Petitioner is responsible for the bill. Once the court has made a determination of liability and issued a judgment the State cannot reverse the judgment.
15. On June 7, 2016, the Michigan Administrative Hearing System received a Request for Hearing to contest Petitioner's responsibility for the Hospital bill.

CONCLUSIONS OF LAW

The Medical Assistance Program (MA) is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act

Medical Assistance Program.

Providers cannot bill beneficiaries for services except in the following situations:

- A co-payment for chiropractic, dental, hearing aid, pharmacy, podiatric, or vision services is required. However, a provider cannot refuse to render service if the beneficiary is unable to pay the required co-payment on the date of service.
- A monthly patient-pay amount for inpatient hospital or nursing facility services. The local DHHS determines the patient-pay amount. Non-covered services can be purchased by offsetting the nursing facility beneficiary's patient-pay amount. (Refer to the Nursing Facility Chapter for more information.)
- For nursing facility (NF), state-owned and -operated facilities or CMHSP-operated facilities determine a financial liability or ability-to-pay amount separate from the DHHS patient-pay amount. The state-owned and -operated facilities or CMHSP-operated facilities liability may be an individual, spouse, or parental responsibility. This responsibility is determined at initiation of services and is reviewed periodically. The beneficiary or his authorized representative is responsible for the state-owned and -operated facilities or CMHSP ability to pay amount, even if the patient-pay amount is greater.
- The provider has been notified by DHHS that the beneficiary has an obligation to pay for part of, or all of, a service because services were applied to the beneficiary's Medicaid deductible amount.
- If the beneficiary is enrolled in a MHP and the health plan did not authorize a service, and the beneficiary had prior knowledge that he was liable for the service. (It is the provider's responsibility to determine eligibility/enrollment status of each beneficiary at the time of treatment and to obtain the appropriate authorization for payment. Failure of the provider to obtain authorization does not create a payment liability for the beneficiary.)
- Medicaid does not cover the service. If the beneficiary requests a service not covered by Medicaid, the provider may charge the beneficiary for the service if the beneficiary has been told prior to rendering the service that it was not covered by Medicaid. If the beneficiary is not informed of Medicaid non-coverage until after the

services have been rendered; the provider cannot bill the beneficiary.

- The beneficiary refuses Medicare Part A or B.
- Beneficiaries may be billed the amount other insurance paid to the policyholder if the beneficiary is the policyholder.
- The beneficiary is the policyholder of the other insurance and the beneficiary did not follow the rules of the other insurance (e.g., utilizing network providers).
- The provider chooses not to accept the beneficiary as a Medicaid beneficiary and the beneficiary had prior knowledge of the situation. The beneficiary is responsible for payment.

Medicaid Provider Manual, (MPM), §11.1, General Information for Providers Section, January 1, 2016, pp 28-29

It is recommended that providers obtain the beneficiary's written acknowledgement of payment responsibility prior to rendering any non-authorized or non-covered service the beneficiary elects to receive.

Some services are rendered over a period of time (e.g., maternity care). Since Medicaid does not normally cover services when a beneficiary is not eligible for Medicaid, the provider is encouraged to advise the beneficiary prior to the onset of services that the beneficiary is responsible for any services rendered during any periods of ineligibility. Exceptions to this policy are services/equipment (e.g., root canal therapy, dentures, customized seating systems) that began, but were not completed, during a period of eligibility. (Refer to the provider-specific chapters of this manual for more information regarding exceptions.)

MPM, 11.1, page 31, explicitly states that Medicaid-covered services for which the provider has been denied payment because of improper billing, failure to obtain PA, or the claim is over one year old and has never been billed to Medicaid. Federal regulations and state policy prohibit payment by Medicaid without a claim.

The Appellant's grievance centers on dissatisfaction with the department's current policy. The Appellant's request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written Delegation of Authority signed by the Michigan Department of Community Health (now Health and Human Services) Director, which states:

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulation, or overrule or make exceptions to Department policy. (February 22, 2013)

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co v Baker*, 295 Mich 237; 294 NW168 (1940).

This Administrative Law Judge does not possess equitable powers and, therefore, cannot award benefits or payments as a matter of fairness.

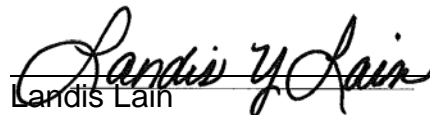
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, decides that the Department properly determined that Petitioner's unpaid medical bills were sent to her because she chose to receive services from a provider. The Provider has not billed Medicaid for the services performed April 2013. The provider has not billed Medicaid for the services. Medicaid cannot pay for services for which it has not been billed. Furthermore, because Medicaid providers only have one year to submit claims for services, a claim cannot be submitted at this time.

IT IS, THEREFORE, ORDERED that:

The Department's decision is **AFFIRMED**.

LL ■



Landis Lain

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 30763
Lansing, Michigan 48909-8139

DHHS -Dept Contact

[REDACTED]

DHHS Department Rep.

[REDACTED]

Petitioner

[REDACTED]

Agency Representative

[REDACTED]