



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 25, 2018
MAHS Docket No.: 18-003456
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 24, 2018, from Lansing, Michigan. Petitioner represented herself for the hearing. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

ISSUE

Did the Department properly issue Petitioner written notice that her Medical Assistance - Group 2 Spend-Down (G2S) deductible increased effective May 1, 2018, ongoing?

FINDINGS OF FACT

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

1. Petitioner is an ongoing recipient of MA-G2S benefits, subject to a deductible. [Exhibit B, p. 1.]
2. From January 1, 2018 to April 30, 2018, Petitioner's monthly deductible was \$ [REDACTED] [Exhibit B, p. 1.]
3. On or about March 21, 2018, the Department certified Petitioner's eligibility for her G2S benefits, which resulted in her deductible increasing to \$ [REDACTED] per month effective May 1, 2018. [Exhibit B, p. 1.]
4. The Department failed to send Petitioner written notice that her deductible had increased effective May 1, 2018.

5. On March 30, 2018, Petitioner filed a hearing request, protesting her MA deductible. [Exhibit A, pp. 14-15.]

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.

Preliminary matters

First, Petitioner sought to dispute her G2S deductible dating back to September 2017. However, the undersigned Administrative Law Judge (ALJ) lacks any jurisdiction to address Petitioner's deductible dating back to this time period. On August 16, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her MA benefits were approved effective September 1, 2017, ongoing, subject to a \$ [REDACTED] monthly deductible. [Exhibit A, pp. 3-8.] Also, on December 27, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that her MA benefits were approved effective February 1, 2018, ongoing, subject to a \$ [REDACTED] monthly deductible. [Exhibit B, pp. 2-7.] Further, Petitioner's monthly deductible of \$ [REDACTED] continued until April 30, 2018. [Exhibit B, p. 1.] Policy states that the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2017), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6. Here, the Department's notices were dated August 16, 2017, and December 27, 2017. However, Petitioner did not file a request for hearing to contest the actions until March 30, 2018. [Exhibit A, pp. 14-15.] As a result, Petitioner's hearing request was not timely filed within ninety days of the notices and therefore, Petitioner's hearing request concerning the deductible from September 2017 to April 2018 is DISMISSED for lack of jurisdiction. See BAM 600, p. 6.

Second, Petitioner also appeared to dispute the Department's failure to process her reported medical expenses and/or submitted bills. However, a review of Petitioner's hearing request finds that she failed to request a hearing disputing her medical expenses/bills. [Exhibit A, pp. 14-15.] As a result, the undersigned lacks any jurisdiction to address Petitioner's dispute with her medical expenses/bills. Petitioner can attempt to file another hearing request protesting the Department's failure to

process her reported medical expenses and/or submitted bills. BAM 600 (April 2018), pp. 1-6.

Third, the undersigned will address whether the Department properly notified Petitioner that her G2S deductible increased to \$█ effective May 1, 2018, ongoing. Prior to Petitioner's hearing request, the Department certified Petitioner's eligibility for her G2S benefits, which resulted in her deductible increasing to \$█ per month effective May 1, 2018. [Exhibit B, p. 1.] Because the determination of Petitioner's deductible beginning May 1, 2018, occurred *before* the date of her hearing request, the undersigned will address her benefits beginning this time period.

MA-G2S deductible

G2S is an SSI-related Group 2 MA category. See BEM 166 (April 2017), p. 1. BEM 166 outlines the proper procedures for determining G2S eligibility. BEM 166, p. 1.

BEM 545, MA Group 2 Income Eligibility, contains a list of the form(s) you need to notify groups about MA Group 2 eligibility determinations and tells you when to send them. BEM 545 (January 2017), p. 14.

The Department send the group a DHS-1606, Health Care Coverage Notice when you:

- *Approve or deny MA.*
- Add periods of MA coverage to an active deductible case.
- Transfer an active deductible case to ongoing MA coverage.

BEM 545, p. 14 (emphasis added).

The Department uses a DHS-114 or its Bridges equivalent to notify the group of:

- The start of or transfer to active deductible.
- *A change in its deductible amount.*
- The begin and end date(s) of MA coverage, when added.
- Its share of the expenses incurred on the date it meets its deductible.
- The names of all providers notified to collect payment from the group for all or part of an expense used to meet deductible.

BEM 545, p. 14 (emphasis added).

A negative action is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (January 2018), p. 1. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement. BAM 220, p. 1.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action.

BAM 220, p. 2. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p. 2. There are two types of written notice: adequate and timely. BAM 220, p. 2.

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). BAM 220, p. 3. For MA only cases, adequate notice would be sent in the following circumstances:

- Case opening with a deductible or patient-pay amount.
- Decrease in post-eligibility patient-pay amount.
- Recipient removed due to his eligible status in another case.
- Addition of MA coverage on a deductible case.
- Increase in medical benefits.
- Divestment penalty when program enrollment type (PET) code is blank.

BAM 220, p. 4.

Pursuant to the above policy, the Department failed to send Petitioner written notice that her deductible had increased effective May 1, 2018. [Exhibit B, p. 1.] A review of Petitioner's Eligibility Summary showed that on or about March 21, 2018, the Department certified Petitioner's eligibility for her G2S benefits, which resulted in her deductible increasing. [Exhibit B, p. 1.] However, there was no evidence presented showing the Department sent Petitioner written notice that her deductible had increased, including written notification of her rights to appeal. A review of the policy finds that Petitioner should have received some form of written notice due to a change of her deductible amount, but no such notice was sent. See BEM 545, p. 14.

Accordingly, the undersigned finds that the Department failed to issue Petitioner written notice that her deductible had increased effective May 1, 2018, in accordance with Department policy. BAM 220, pp. 1-4; BEM 545, p. 14. The Department is ordered to issue Petitioner written notice of her MA deductible increase effective May 1, 2018. Upon receipt of Petitioner's written notification, she can request another hearing disputing her MA deductible effective May 1, 2018. See BAM 600, p. 6.

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 issue Petitioner written notice that her deductible had increased effective May 1, 2018.

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. Issue Petitioner written notice that her MA deductible had increased effective May 1, 2018, in accordance with Department policy.

IT IS ALSO ORDERED that Petitioner's hearing request concerning her MA deductible from September 2017 to April 2018 and the reporting/processing of her medical expenses is **DISMISSED**.

EF/nr


Eric J. Feldman
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) 763-0155; 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

Latasha McKinney-Newell
26355 Michigan Ave.
Inkster, MI
48141

Wayne 19 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

