



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 7, 2018
MAHS Docket No.: 18-006209
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 August 8, 2018, from Lansing, Michigan. Petitioner was represented by herself. Petitioner's husband, Brian Mason, also appeared and testified. The Department of Health and Human Services (Department) was represented by Kristy Heimerl, Assistance Payment Supervisor. Teresa Kempen, Eligibility Specialist, also appeared and testified. Department Exhibit 1, pp. 1-49 was received and admitted. Petitioner Exhibit A, pp. 1-4 was received and admitted.

ISSUE

Did the Department properly process Petitioner's May 14, 2018, medical bill?

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 was a recipient of Medical Assistance- Health Michigan Plan (MA-HMP).
2. On March 20, 2018, Petitioner submitted updated income information.
3. On March 24, 2018, a Health Care Coverage Determination Notice was sent to Petitioner informing her that there was active MA coverage for all household members through May 2019. (Department Exhibit 1, pp.8-9)

4. On March 27, 2018, a Health Care Coverage Determination Notice was sent to Petitioner informing her that [REDACTED] and [REDACTED] were not eligible due to excess income. (Department Exhibit 1, pp. 10-14)
5. Petitioner was contacted on numerous occasions in April of 2018, and May of 2018, and told she and her husband were required to complete a Healthy Behavior to maintain their MA coverage.
6. Petitioner was sent a Health Risk Assessment that she completed and submitted. (Department Exhibit 1, pp. 30-33)
7. On April 30, 2018, [REDACTED] completed a physical in an effort to meet the Healthy Behavior requirement.
8. [REDACTED] had lab work completed on May 7, 2018, after it was ordered as part of his physical and was sent a bill for \$[REDACTED] (Department Exhibit 1, p.7)
9. The Department denied payment for the May 14, 2018, bill because Petitioner was not showing active MA-HMP coverage.
10. On July 12, 2018, Petitioner and her husband [REDACTED] were sent a letter that states "You are currently enrolled in a Healthy Michigan Plan health plan and you will stay in that plan for now." (Petitioner Exhibit A, pp.1-4)

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.

All Programs

An **agency error** is caused by incorrect actions (including delayed or no action) by the Michigan Department of Health and Human Services (MDHHS) staff or department processes. Some examples are:

- ☐ Available information was not used or was used incorrectly.
- ☐ Policy was misapplied.

- ☐ Action by local or central office staff was delayed.
- ☐ Computer errors occurred.
- ☐ Information was not shared between department divisions such as services staff.
- ☐ Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.).

If unable to identify the type of overissuance, record it as an agency error.

MA and ESS

Recoupment of agency errors is not pursued. BAM 705 (January 2016)

In this case, Petitioner was sent conflicting information regarding her eligibility for MA-HMP. After Petitioner submitted income information, on March 24, 2018, Petitioner was sent a Notice of Case Action that states that she and her husband were active for MA-HMP from April 1, 2018, through ongoing. (Department Exhibit 1, pp.8-9) On March 27, 2018, Petitioner was sent a Notice of Case Action stating that she and her husband were no longer eligible for MA-HMP due to excess income. (Department Exhibit 1, pp. 10-14) However, Petitioner credibly testified that she was contacted 24 times by her health plan in April of 2018, and May of 2018, regarding completing a "Healthy Behavior" to maintain her coverage. (Department Exhibit 1, pp. 34-38) Petitioner's husband made an appointment for a physical and completed a physical on April 30, 2018, based on an understanding that he was active for MA-HMP and was under an obligation to complete a "healthy behavior". (Department Exhibit 1, pp. 21-23) Petitioner's husband's physician ordered laboratory testing to be completed following the physical. The laboratory testing was completed on May 7, 2018. Petitioner's husband was billed on May 14, 2018, in the amount of \$ [REDACTED] because MA-HMP coverage was not active. (Department Exhibit 1, p. 7)

The evidence presented establishes that the Department did not communicate to the health plan that Petitioner's MA-HMP coverage had ended. Petitioner was instructed to complete a healthy behavior in error on numerous occasions, including after May 1, 2018, and that instruction should be considered agency error under the "information not shared between department divisions such as services staff" provision. BAM 705 This Department error led Petitioner's husband to incur a medical bill that he would not have incurred absent the error. Department policy dictates that recoupment of agency error is not pursued for the MA program. BAM 705

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 failed to pay Petitioner's husband's May 14, 2018, bill from [REDACTED] for laboratory testing.

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. Activate MA-HMP coverage for May 2018.
2. Reprocess Petitioner's husband's May 14, 2018, [REDACTED] bill.

AM/bb



Aaron McClintic

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

Scott Parrott
408 Copper St. Suite B
Ontonagon, MI 49953

Ontonagon County, DHHS

BSC1 via electronic mail

D. Smith via electronic mail

EQADHS via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]