



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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Date Mailed: August 19, 2019  
MOAHR Docket No.: 19-006900  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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 three-way telephone hearing was held on August 12, 2019, from ██████████ Michigan. The Petitioner was represented by Linda Balakian Blake, the Petitioner's Authorized Hearing Representative. The Department of Health and Human Services (Department) was represented by Jerica Hall, Assistance Payments Supervisor.

**ISSUE**

Did the Department properly process the Petitioner's medical bills after the Petitioner's Medial Assistance (MA) application was processed?

**FINDINGS OF FACT**

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

1. The Petitioner filed an application for MA on November 14, 2018. Exhibit A, pp. 6-10.
2. On December 18, 2018, the Department sent a Health Care Coverage Determination Notice (HCCDN) denying the application for MA due to excess income and income over the limit for benefits.
3. As a result of a protest by Petitioner's Authorized Representative (AR) on March 18, 2019, regarding the application denial, the Department reinstated the application and issued a HCCDN dated April 22, 2019, approving the Petitioner for MA with a \$2,680.00 deductible, effective November 1, 2018. Exhibit C.

4. On May 30, 2019, Petitioner's AHR submitted medical bills; and on June 17, 2019, the AHR submitted another set of medical bills.
5. The bills were from medical expenses incurred in the application month November 2018 and could not be applied for the month of November 2018. The Department requested a review from its policy section, and it was determined that the bills were not submitted within 90 days of the date of service, which in this case was a hospitalization.
6. On June 26, 2019, the Petitioner's AHR requested a timely hearing protesting the Department determination that the bills could not be processed for the month they were incurred.

### **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.

In this case, the Department erred and conceded its error when it initially denied the Petitioner's MA application due to excess income when in fact, Petitioner was eligible for MA subject to a deductible. The Department discovered its error regarding improper closure after discussions with Petitioner's AHR. The Department reregistered the application, and on April 22, 2019, issued a second HCCDN approving the Petitioner's application subject to a monthly deductible of \$2,680, effective November 1, 2018. Thereafter, the Petitioner's AHR submitted two sets of medical bills; one set was submitted May 30, 2019, and another set on June 17, 2019. The AHR sought to have the bills applied to a November 2018 hospitalization cost. The Department, after attempting to apply the bills to meet the deductible for November 2018, ultimately determined that it could only apply the bills currently and not for the month of November 2018 to meet the deductible because the bills were not submitted within 90 days of the November 2018 services.

The Department recognizing the problem because the processing system would not accept the bills for November 2018, contacted its policy section to seek a determination

as to whether it was correct that the bills under the facts presented could not be allowed to be processed for November 2018 because they were not submitted within 90 days of the services. The Department was advised that because the bills were submitted beyond the 90-day submission period, they could not be used to meet the November 2018 deductible. Unfortunately, had the Department properly processed the application for a deductible initially, rather than denying the application, the bills could have been submitted within 90 days of the date of service. Likewise, the Petitioners AHR could also have reapplied for MA on her behalf in December 2018 after the Department's improper denial but did not do so.

Department policy found in BEM 545 covers MA Group 2 MA income eligibility and the processing of medical bills and expenses to meet a deductible.

Income eligibility exists for all or part of the month tested when the **medical group's** (defined in BEM 544, **EXHIBIT I**) allowable medical expenses (BEM 545, EXHIBIT I) equal or exceed the fiscal group's excess income. BEM 545 (October 2018), p. 3.

Policy found in BEM 545 requires that an expense must be reported no later than the last day of the third month after the medical expense is incurred. The expense may be used and applied as an old bill to meet Petitioner's deductible. BEM 545, p. 11. Thus, the November 2018 bills can be used to meet the deductible for any month within 90 days prior to its submission, or they can be used to satisfy a current month or future month, whichever is most advantageous to the Petitioner.

At the hearing, the Petitioner's AHR referred to an example in BEM 545 to support its position that in this case the bills can be applied to meet the November 2018 deductible. BEM 545 provides several examples that are applicable to this situation:

**Example:** The client incurs a medical expense in January 2016. The expense was **reported** and verification turned in to DHHS in August 2016.

- As the expense was reported later than the last day of the third month (April 30, 2016) after the expense, it cannot be used for January 2016.
- The expense can be used as an old bill.
- When eligibility determination is done in August 2016, the old bill (Jan 2016 expense) can be used for May 2016, June 2016, July 2016, August 2016 or future months. To allow the client to choose the most advantageous month(s) in which they want to use the old bill, enter the "Apply to Deductible Determination From/To Dates" Most Advantageous does not mean they can turn in an expense at any time and eligibility can be determined for the month the expense was incurred. If the client had **reported** the January 2016 expense between January 1 and April 30, 2016, but had not verified, then the expense can be used for the January 2016 expense when

the verifications are received. It is important for the specialist to **document** when the client reports an expense even if the client does not yet have the bill to verify the expense. The expense does not need to be verified before using as an expense. BEM 545, pp. 11-12 (emphasis supplied).

**Example:** The client applies for Health Care Coverage in January 2016. Determination of eligibility is not completed until August 2016 and results in the determination of a deductible case for January 2016 ongoing. The client has until the last day of the third month (that is November 2016) following the notification that they client has a deductible case (notice sent August 2016) to report the expense. BEM 545, p. 12.

As can be seen from the examples, once a bill becomes an old bill it may be applied retroactively back 90 days or for the month it is submitted, or applied for a future month. The example referenced by the AHR does not support the conclusion that the bills in this case can be applied for the month of November 2018 as they were submitted beyond the 3<sup>rd</sup> month following the services.

At the hearing there was no evidence presented that any reporting of medical bills or expense were provided prior to the availability of the actual bills. It did not appear that there was a hospital admission notice filed with the Department. A review of the application does not indicate any hospitalization notification or reporting of November 2018 medical expenses, other than the answer “no” to the question does anyone in the household need help paying for medical bills from the past 3 months?

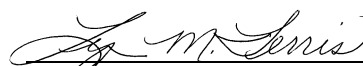
Based upon the facts, testimony and exhibits presented it is determined that the Department based upon department policy correctly determined that the Petitioner’s medical bills for November 2018 which were submitted to the Department well after 90 days from the date of service could not be applied to effectuate meeting the Petitioner’s deductible.

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 acted in accordance with Department policy when it denied full Medicaid coverage for November 2018 due to the medical bills for that month being submitted more than 90 days after the services were provided.

#### **DECISION AND ORDER**

Accordingly, the Department’s decision is **AFFIRMED**.

LMF/jaf



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**Lynn M. Ferris**

Administrative Law Judge

for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

Via Electronic Mail  
**DHHS**

Kelly Sutherland  
MDHHS-Livingston-Hearings

BSC4  
D Smith  
EQAD

Via First Class Mail  
**Authorized Hearing Rep.**

Linda Balakian-Blake  
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**Petitioner**

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