



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: March 25, 2020
MOAHR Docket No.: 20-001013
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 11, 2020, from Detroit, Michigan. Petitioner was present with her Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Stacy Powe, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility for November 2019, December 2019 and January 2020?

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 an ongoing MA recipient under the Group 2 SSI-related (G2S) MA program.
2. During the period of November 1, 2019 through January 31, 2020, Petitioner had a monthly deductible in the amount of \$1,159 (Exhibit A, pp. 12-14).
3. The Department determined Petitioner did not meet her deductible for November 2019, December 2019 and January 2020.

4. On [REDACTED], 2020, Petitioner submitted a request for hearing disputing the Department's determination that she did not meet her deductible in November 2019, December 2019 and January 2020.

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, Petitioner was an ongoing MA recipient under the G2S program. Petitioner submitted a request for hearing disputing the Department's determination that she did not meet her deductible in November 2019, December 2019 and January 2020.

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. BEM 545 (October 2018), p. 10. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 11. Except for transportation, the actual charge(s) minus liable third-party resource payments count as an allowable expense. BEM 545, p. 16. Payments made by Medicare are included as third-party resource payments. BEM 545, p. 19. The Department will count allowable expenses incurred in the month in which eligibility is being determined, whether paid or unpaid. BEM 545, p. 16. However, if an expense was reported later than the last day of the third month after it was incurred, it cannot be used in the month it was incurred. BEM 545, p. 11. The expense can only then be used as an old bill, if it meets the qualifications as an old bill. BEM 545, p. 6 and 11. Once the client's medical expenses exceed their excess income (their deductible), the client no longer has liability, meaning they have full-coverage MA benefits for the remainder of the month. BEM 545, pp. 5-6.

The Department presented Petitioner's Medical Expense Summary showing all of the medical expenses that were deemed valid in the consideration of whether Petitioner met her deductible. The Department highlighted that Petitioner did not meet her deductible with the expenses that were included in the summary. The Department also presented medical expenses that were submitted by Petitioner that were not considered when determining if she met her deductible. The Department presented receipts from pharmacies showing the purchase of over the counter (OTC) medications (Exhibit A, pp.

15-22). The Department testified that many of the receipts did not have the date. Additionally, all of the purchases were for OTC medications. Per policy, countable medical expenses do not include certain OTC medications such as band-aids, alcohol, cotton swabs, nonprescription cold remedies, ointments and thermometers. BEM 545, p. 18. Therefore, the Department acted in accordance with policy when it did not consider those expenses when determining if Petitioner met her deductible.

The Department also presented Deductible Reports submitted by Petitioner showing expenses for various medical treatments (Exhibit A, pp. 23-26). The Department testified that the expenses were not included, as they do not show the patient's portion of the medical expenses.

Petitioner's AHR testified that along with the Deductible Reports, she submitted charge data from the clinic at which Petitioner receives medical treatment (Exhibit 1, pp. 1-12). Petitioner's AHR stated she is Petitioner's case manager at the clinic. The clinic does not have the same billing process as other medical facilities. Petitioner's AHR testified that these documents are what the clinic produces to show the medical expenses owed. Petitioner's AHR also testified that Petitioner does not have any insurance, with the exception of her Medicaid benefits. As such, the amount shown on each expense is Petitioner's liability, as there will be no third-party adjustments.

As stated above, policy will only count medical expenses minus third-party resource payments. Petitioner does not have any additional insurance. Therefore, she is liable for the expenses shown. Petitioner's AHR gave credible testimony that the medical expense verifications were submitted with the Deductible Reports. Thus, Petitioner properly verified her out-of-pocket medical expenses that should have been considered when determining whether she met her deductible. As it follows, the Department did not act in accordance with policy when it determined Petitioner's MA eligibility for November 2019, December 2019 and January 2020.

DECISION AND ORDER

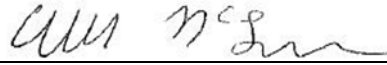
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it determined Petitioner's MA eligibility in November 2019, December 2019 and January 2020.

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. Redetermine Petitioner's MA eligibility for November 2019, December 2019 and January 2020;
2. Provide Petitioner with coverage she is entitled to receive; and

3. Notify Petitioner's AHR of its decision in writing.

EM/cg



Ellen McLemore
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 Email:

MDHHS-Wayne-15-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

**Authorized Hearing Rep. –
Via First-Class Mail:**

[REDACTED]

**Petitioner –
Via First-Class Mail:**

[REDACTED]