



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 14, 2019
MAHS Docket No.: 19-001290
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 14, 2019, from Detroit, Michigan. The Petitioner was represented by ██████████ her Authorized Hearings Representative (AHR) and Authorized Representative (AR) from Independent ██████████. The Department of Health and Human Services (Department) was represented by Jericha Hall.

ISSUE

Did the Department properly apply medical expenses to Petitioner's Medical Assistance (MA) Program deductible?

FINDINGS OF FACT

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

1. On ██████████, 2018, the Department received an MA application for Petitioner from her AHR in addition to a medical expense from University of Michigan Medicine totaling \$██████████ for services provided on ██████████, 2018, and ██████████ 2018.
2. On the same day, the Department received a Retroactive MA application requesting one month to be retroactive.
3. At some point, the September application was denied for failure to verify requested information.

4. On [REDACTED] 2018, the Department received a second application for MA for Petitioner from her AHR in addition to a copy of the same medical expense.
5. On the same day, the Department also received a Retroactive MA application requesting two months to be retroactive, August and September 2018.
6. On November 8, 2018, the Department issued a Verification Checklist (VCL) to Petitioner which was received by the AHR on November 14, 2018, and with verification of Petitioner's bank account due by November 19, 2018.
7. On November 19, 2018, AHR faxed and Department received verification of the bank statement.
8. On November 21, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner and her AHR providing Petitioner with full coverage MA in October 2018, and MA with a deductible of \$ [REDACTED] per month for November 2018, ongoing; the Department failed to process Petitioner's eligibility for August 2018.
9. On December 17, 2018, the Department issued another HCCDN to Petitioner and her AHR after reprocessing Petitioner's case and she was provided MA with a deductible of \$ [REDACTED] for August 2018, full coverage MA for September and November 2018, and MA with a deductible of \$ [REDACTED] for February 2019, ongoing.
10. On February 4, 2019, the Department received a hearing request on behalf of Petitioner from AHR disputing the Department's application of medical expenses to Petitioner's deductible.

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's AHR requested a hearing because she believes that the medical expenses from University of Michigan Medicine should be applied to the August 2018 deductible as opposed to the September, October, or November 2018 deductible, and that the Department erred in application of the expense in any other month besides August 2018.

Deductibles are a process which allow an MA client with excess income to become eligible for Group 2 (G2) MA if sufficient allowable medical expenses are incurred. BEM 545 (October 2018), p. 10. When an MA case is opened for a client with a deductible, the case is opened without ongoing coverage. *Id.* Periods of coverage are added each time the group meets its monthly deductible and each calendar month is a separate deductible period. *Id.* In order to meet a deductible, a client must report and verify allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, p. 11. If an expense is reported later than the last day of the third calendar month after the expense was incurred, the expense cannot be considered for the month in which it was incurred. *Id.* However, the expense can be considered as an old bill and applied toward any month after the initial three-month submission period. BEM 545, pp. 11-12. The client can choose to have the old medical bill applied to the most advantageous month, or the month that the client will receive the most benefit if the bill is considered in that month. *Id.* If a client reports the expense timely, but is unable to verify the expense on a timely basis, the expense can be budgeted for the month in which it was incurred. *Id.* Therefore, the Department is required to document client reports of expenses even if the client does not yet have a bill to verify the expense. *Id.*

When the deductible is met, the Department is required to notify the group of the beginning and end dates of MA coverage, the group's share of medical expenses incurred on the date that the deductible was met, and the names of all providers notified to collect payment from the group or individual for all or part of the expense used to meet the deductible. BEM 545, pp. 14-15. To complete this task, the Department may utilize a DHS-114 or Bridges equivalent.

The Department concedes that it failed to properly process Petitioner's Retroactive MA application which requested assistance for August and September 2018 in conjunction with the ██████████ 2018 application. The Department recognized that Petitioner was seeking retroactive assistance for September, and that Petitioner needed assistance in October, but did not realize that the retroactive application also included August. The error was not realized until December 17, 2018. By the time the error was realized, the Department had already processed the medical expense from University of Michigan Medicine and applied it to October 2018. Therefore, after recognizing the request for MA for August 2018, the Department opened a MA deductible case for Petitioner for August 2018 but did not apply any medical expenses toward the deductible for August.

The University of Michigan Medicine bill was incurred on August 24, 2018, and August 25, 2018, but the invoice does not list a mailing date. The parties agree that the

bill was received by the Department as early as September 4, 2018. Therefore, the bill was timely submitted. Bills which are timely submitted are applied to the month in which the bill was incurred. BEM 545, p. 11.

The Department testified that it was unable to apply the University of Michigan Medicine bill to August because it was already applied to October. According to the Department, bills cannot be double counted to provide coverage nor can the bill be removed from one month with active coverage to be placed on another month in order to activate coverage, the problem being that the Department cannot close coverage for one month once it has been opened. The Department is correct that one bill can be applied in only one month and not more than one month. BEM 545. However, the Department has not cited to any policy provision or federal regulation which supports its position that the Department cannot go back and correct its error by applying the bill to August 2018, and removing it from October 2018.

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 applied Petitioner's University of Michigan Medicine expense to October 2018.

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. Apply Petitioner's University of Michigan Medicine medical expense to August 2018 in accordance with Department policy;
2. Issue supplements to Petitioner or on her behalf for MA benefits not previously issued but which she was entitled to receive after the corrections are applied; and,
3. Notify Petitioner and her AHR of the implications of the correct application of the medical expense to August 2018.



AMTM/jaf

Amanda M. T. Marler
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 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

Kelly Sutherland
MDHHS-Livingston-Hearings

Counsel for Petitioner

[REDACTED]
[REDACTED]
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Petitioner

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[REDACTED] MI [REDACTED]

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