



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: June 10, 2019  
MOAHR Docket No.: 19-004293  
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 June 6, 2019, from Detroit, Michigan. Petitioner was represented by his Authorized Hearing Representative (AHR), [REDACTED]. Present on behalf of [REDACTED] was [REDACTED]. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

**ISSUE**

Did the Department properly determine Petitioner did not satisfy his Medical Assistance (MA) deductible in January 2019?

**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 MA recipient under the Group 2 Aged, Blind and Disabled (G2S) MA category. Petitioner had a monthly deductible of \$5,253.
2. On March 12, 2019, Petitioner's AHR submitted medical expenses for Petitioner (Exhibit B).
3. On March 1, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that he did not satisfy his deductible in January 2019 (Exhibit C).

4. On ██████ 2019, Petitioner's AHR submitted a request for hearing disputing the Department's decision.

### **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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner was approved for MA benefits under the G2S category subject to a monthly deductible of \$5,253. On March 12, 2019, Petitioner's AHR submitted medical expenses to meet Petitioner's MA deductible for January 2019.

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. The Department will count allowable expenses incurred in the month in which eligibility is being determined, whether paid or unpaid. BEM 545, p. 16.

The Department testified that it determined that Petitioner did not meet his deductible for the month of January 2019, based on the medical expenses provided. The Department highlighted that none of the expenses were incurred in January 2019. Petitioner's AHR argued that the expenses should be applied as old bills to meet the deductible for January 2019.

The Department may also use certain unpaid expenses from prior months that have not been used to establish MA eligibility. BEM 545, p. 16. In order for an unpaid medical expense to be used as an old bill, it must meet all of the following criteria: (i) the expense was incurred in a month prior to the month being tested; (ii) during the month being tested the expense is/was still unpaid and liability for the expense still exists; (iii) a third party resource is not expected to pay the expense; (iii) the expense was not previously used to establish MA income eligibility; (iv) the expense was incurred on a date the person had no MA coverage, it was not an MA covered service or provided by a non-MA enrolled provider; and (v) a member of the medical group incurred the expense. BEM 545, p. 6.

All of the medical expenses were incurred in a month prior to the month being tested (January 2019). The documents contain insurance adjustments already made, and therefore, there is no expectation that a third party will pay the remaining balances. The Department testified that Petitioner first became eligible for G2S in January 2019. Therefore, the bills could not have been utilized to establish previous MA eligibility. The Department presented Petitioner's MA Eligibility Summary which shows Petitioner did not have MA coverage in 2018 (Exhibit A). Therefore, the expenses were incurred on a date Petitioner did not have MA coverage. The medical expenses were clearly attributable to Petitioner. Therefore, conditions i and iii-v were satisfied.

The Department argued that the medical expenses could not be utilized, as it was not clear that the balances were currently outstanding. Petitioner's AHR testified that they requested all outstanding medical expenses from the medical provider (Michigan Medicine). The medical expenses were provided to Petitioner's AHR on March 11, 2019. Petitioner's AHR argued that the medical expenses shown are currently outstanding.

The document does show Petitioner's medical expense balances. Although the documents do not have a statement date, it is clear they were faxed by the medical provider on March 11, 2019, suggesting that they were outstanding as of that date. Additionally, many of the account balances were subject to insurance adjustments in 2019, further evidencing that the expenses were outstanding at the time. Therefore, the Department failed to establish that it acted in accordance with policy when it did not consider the old bills to meet Petitioner's January 2019 MA deductible. Thus, the Department failed to establish it properly determined that Petitioner did not meet his MA deductible in January 2019.

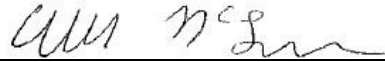
### **DECISION AND ORDER**

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner did not meet his MA deductible in January 2019. 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. Redetermine Petitioner's MA eligibility for January 2019;
2. If Petitioner met his MA deductible, provide him with MA coverage he is entitled to receive; and

3. Notify Petitioner and 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-19-Hearings  
D. Smith  
EQAD  
BSC4- Hearing Decisionos  
MOAHR

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



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

