



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 2, 2021
MOAHR Docket No.: 21-002466
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held via telephone conference on July 19, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kathleen Hopper, supervisor.

ISSUE

The issue is whether MDHHS properly processed Petitioner's medical expenses towards a Medical Assistance (MA) 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. As of April 2020, Petitioner was an ongoing recipient of Medicaid subject to a monthly deductible of ██████
2. In April and May 2020, Petitioner incurred medical expenses.
3. On various dates before July 31, 2020, Petitioner called MDHHS to report medical expenses from April and May 2020.
4. On September 10, 2020, Petitioner submitted to MDHHS a bill of ██████ for a medical service from March 20, 2020.
5. On September 11, 2020, MDHHS issued Medicaid to Petitioner from June 2020 through August 2020.

6. On September 13, 2020, Petitioner submitted to MDHHS a bill of [REDACTED] for a medical service from April 2020. Additionally, Petitioner submitted bills of [REDACTED] and \$ [REDACTED] neither included a date of medical service.
7. On September 15, 2020, MDHHS issued ongoing Medicaid benefits to Petitioner beginning September 2020.
8. On [REDACTED] 2021, Petitioner requested a hearing to dispute MDHHS's alleged failure to properly process medical bills towards a Medicaid deductible for April 2020 and May 2020.

CONCLUSIONS OF LAW

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. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MDHHS policies are contained in BAM, BEM, and RFT.

Petitioner requested a hearing to dispute MA eligibility Exhibit A, pp. 3-5. Specifically, Petitioner alleged that MDHHS failed to process medical bills towards a monthly deductible of [REDACTED] for April and May 2020. MDHHS responded that Petitioner failed to timely submit medical expenses and/or Petitioner untimely did so.

Income eligibility for Medicaid exists for the calendar month tested when there is no excess income (i.e., a client is eligible for Medicaid) or allowable medical expenses equal or exceed the excess income (i.e., when submitted medical bills meet the monthly deductible). BEM 545 (July 2019) p. 3. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month. *Id.*, p. 11. Required verifications for medical expenses include the date that the expense was incurred. *Id.*, p. 11.

For medical expenses that are neither for personal care services, inpatient hospitalization, nor long-term care, MDHHS is to issue MA for the month being tested from the date that expenses exceed the deductible. *Id.*, pp. 4-5. However, the group must report expenses by the last day of the third month following the month in which the group wants MA coverage. *Id.*, pp. 11-12. Bills reported later would be old bills and not usable for the month that the medical expense was incurred. *Id.*, p. 2.

Petitioner testified that she incurred medical expenses in April and May 2020. Petitioner testified that she called her specialist many times beginning July 2020. Petitioner also testified that she called three different specialists, one of them 50-60 times. Petitioner testified that she did not receive a return call until one month later Petitioner further testified

that she submitted a [REDACTED] medical bill from April 2020 to MDHHS and bills for \$ [REDACTED] and \$ [REDACTED] for medical services from May 2020. Petitioner acknowledged submitting the bills to MDHHS in September 2020 but contended her ignored efforts in contacting MDHHS should be considered. Petitioner sought an administrative remedy that MDHHS process her medical bills as if they were submitted to MDHHS within 90 days of April and May 2020.¹

MDHHS could not speak to Petitioner's telephone calls but stated that it only received the following medical expenses from Petitioner in September 2020: a \$ [REDACTED] bill listing services from April 2020, a [REDACTED] bill for a service from March 2020, and bills of [REDACTED] (presumably a duplicate bill) and [REDACTED] listing no dates of service. MDHHS contended that Petitioner's failure to return the bills within three months following the dates of services justified processing them as old bills.² MDHHS further testified that Petitioner did not submitted any other medical bills. Thus, MDHHS contended, Petitioner was properly not issued Medicaid for April and May 2020, subject to her [REDACTED] deductible.

Concerning Petitioner's claimed medical bill submissions, Petitioner was given an opportunity to verify her submission by checking an app through which she stated that she submitted the expenses. Petitioner testified that she was unable to find any record of her submission. During the hearing, MDHHS checked Petitioner's electronic case file and credibly testified that only medical bills for [REDACTED] and \$ [REDACTED] listing dates of service were received.³ Petitioner cannot be given credit for verifying the [REDACTED] and [REDACTED] bills which did not include a date of service due to a failure to verify when the bills were incurred. The evidence did establish Petitioner's verification of medical expenses for \$ [REDACTED] (the one with a March 2020 date of service) and \$ [REDACTED] (with an April 2020 date of service).

Petitioner's testimony concerning her telephone calls to MDHHS was credible and un rebutted. MDHHS seemed to contend that Petitioner's communication efforts were irrelevant because medical bill submissions occurred more than three months after the month that Petitioner incurred the expenses. However, MDHHS policy states that clients need only report the medical expenses within three full months following the incurring of the bills.⁴ Reporting does not equate to verifying. Reporting may be done verbally, as Petitioner credibly testified to doing beginning July 2020.

The evidence did not establish that Petitioner timely reported her \$ [REDACTED] expense from March 2020 because she first reported the bill to MDHHS in July 2020. The evidence established a timely reporting by Petitioner of a \$ [REDACTED] bill listing services from April 2020.

¹ Petitioner testified that she paid [REDACTED] to her medical providers for expenses from April and May 2020 and expected that Medicaid would cover any remaining balance.

² MDHHS approved Petitioner for Medicaid beginning June 2020, in part, based on Petitioner's submitted medical bills. Exhibit A, pp. 8-16

³ An electronic case file is a database which stores and lists all documents received from a client. BAM 300 (January 2020) p. 1.

⁴ MDHHS policy gives an example where a client reports a medical expense from January 2016 before April 30, 2016. The example goes on to state that the reported expense can be applied to a January 2016 deductible when the verifications are received because the expense was timely reported. Also, policy directs that "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." *Id.*, p. 12

The evidence established that MDHHS failed to process the bill given Petitioner's timely reporting. As a remedy, Petitioner is entitled to a reprocessing of her timely reported and verified medical expense of \$ [REDACTED]

As discussed above, Petitioner timely reported to MDHHS medical expenses from April and May 2020, because she reported them to MDHHS in July 2020. The evidence did not establish that Petitioner submitted verification of the expenses. MDHHS cannot be ordered to process expenses towards a deductible without verification. However, Petitioner's reporting of the expenses should have triggered a verification request.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (April 2017), p. 3. MDHHS is to send a VCL to request verification. *Id.* MDHHS is to allow the client at least 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

There was no evidence that MDHHS ever sent Petitioner a VCL requesting documentation of Petitioner's medical expenses. Petitioner is entitled to a timely reporting date and receipt of a VCL requesting proof of Petitioner's medical expenses from April and May 2020. Thus, MDHHS will be ordered to request proof of Petitioner's timely reported expenses.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly processed Petitioner's reported medical expenses. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's verified medical expense of \$ [REDACTED] towards Petitioner's April 2020 MA eligibility, subject to the finding that Petitioner timely reported the expense to MDHHS in July 2020;
- (2) Send a VCL requesting proof of Petitioner's April and May 2020 based on Petitioner's verbal reporting of expenses in July 2020; and
- (3) Issue a supplement of benefits, if any, and notice in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/tm



Christian Gardocki

Administrative Law Judge

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-Oakland-4-Hearings
C. George
EQADHearings
BSC4
MOAHR

Petitioner –
Via First-Class Mail:

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