**STATE OF MICHIGAN**
**MICHIGAN ADMINISTRATIVE HEARING SYSTEM**
**FOR THE DEPARTMENT OF COMMUNITY HEALTH**
P. O. Box 30763, Lansing, MI 48909
(877) 833-0870; Fax (517) 334-9505

IN THE MATTER OF:

Docket No. 2012-21558 PEME

[redacted],

Appellant

_____/

## DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 42 CFR 431.200 *et seq.,* upon the Appellant's request for a hearing.

After due notice, a hearing was held [redacted]. The record was kept open for submission of additional evidence and closed [redacted].

The Appellant was represented by her [redacted].

[redacted], Appeals Review [redacted], represented the Department. Her witness was [redacted] Specialist/MDCH.

## ISSUE:

Whether the Department properly determined the Appellant is not eligible for pre-eligibility offset for the months of [redacted].

## FINDINGS OF FACT:

1. The Appellant is a Medicaid beneficiary.

2. The Appellant applied for Medicaid in [redacted]. This application was approved and retroactive benefits granted dating back to [redacted] (uncontested)

3. The Appellant had previously applied for Medicaid in [redacted]. This application was denied. (uncontested)

4. The Appellant is seeking pre-eligibility offset for medical expenses incurred in the months of [redacted]. (uncontested)

5. The Appellant's request for hearing was received [redacted]

## CONCLUSIONS OF LAW

The Medical Assistance Program is established pursuant to Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). It is administered in accordance with state statute, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program.

BEM 164 addresses extended care and Patient Pay offsets. It states in pertinent part:

> **Patient Pay Offsets**
> If an LTC applicant requests an offset of their patient pay to cover old medical bills, see Pre-Eligibility Medical Expense (PEME) in glossary and in this item. Assist the applicant by forwarding their unpaid bills to:
>
> Medical Services Administration
> Michigan Department of Community Health
> P.O. Box 30479
> Lansing, MI 48909-9634
> Attn: PEME
>
> DCH will determine whether an offset is allowable. Offsets will be applied to the months following an approval. In general, the allowable expenses are the same as allowed for a group 2 deductible case. In addition, the medical expense(s) must be:
>
> - Unpaid, and an obligation still exists to pay.
> - Cannot be from a month where Medicaid eligibility existed.
> - Cannot be covered by a third party source (public or private).
> - Cannot be from a month in which a divestment penalty has been imposed.
> - Cannot have been used previously as a pre-eligibility medical expense to offset a patient pay amount.
> - Can include cost of room and board for Medicaid LTC facilities, remedial care, and other medical expenses recognized by Michigan law but not covered under the Michigan state plan.
>
> **BEM 164** 3 of 3 **EXTENDED-CARE**
> **BRIDGES ELIGIBILITY MANUAL STATE OF MICHIGAN**
> **DEPARTMENT OF HUMAN SERVICES**
> BPB 2011-002
> 2-1-2011

- Must be reported prior to the first Medicaid redetermination following the initial eligibility.
- DCH will terminate offsets if there is a failure to pay the medical provider with the funds.

BEM 164 effective 2-1-2011

**PRE-ELIGIBILITY MEDICAL EXPENSE**
Unpaid medical expenses incurred in the three months prior to application for Medicaid. The offset is only allowed if used to pay the provider(s) for the medical expense and will be terminated if the recipient fails to pay the provider. In general the allowable expenses are the same as allowed for a group 2 deductible case. In addition, the medical expense(s) must be:

- Unpaid, and an obligation still exists to pay.
- Cannot be from a month where Medicaid eligibility existed.
- Cannot be covered by a third party source (public or private).
- Cannot be from a month in which a divestment penalty has been imposed.
- Cannot have been used previously as a pre-eligibility medical expense to offset a patient pay amount.
- Can include cost of room and board for Medicaid long term care (LTC) facilities, remedial care and other medical expenses recognized by Michigan law but not covered under the Michigan state plan.
- Must be reported prior to the first Medicaid redetermination following the initial eligibility.
- DCH will terminate offsets if there is a failure to pay the medical provider with the funds.

**BPG GLOSSARY**
35 of 47 **GLOSSARY**

**BRIDGES POLICY GLOSSARY STATE OF MICHIGAN**
**DEPARTMENT OF HUMAN SERVICES** BPB 2012-004
4-1-2012

The Department provided uncontested evidence the Appellant was approved for Medicaid in [redacted] and had retroactive benefits established dating back to [redacted]. The patient pay offset provisions set forth above and the Glossary

clearly state that a pre-eligibility medical expense is an unpaid medical expense incurred in the [redacted] months prior to application for Medicaid.

The Appellant argues because a retroactive Medicaid application is an application, the three months prior to even the retroactive benefits that were approved should be allowable pre-eligibility medical expenses. This is not supported by the policy or glossary statements contained in the Department policy manual, the controlling authority. The Appellant further seeks coverage because there had been an [redacted] Medicaid application. Medicaid benefits were not approved as a result of that application, thus pre-eligibility benefits are not payable. Eligibility is a prerequisite for pre-eligibility benefits. Additionally, the Appellant attempts to further his argument for coverage because earlier Medicaid applications should have been approved. He goes so far as to state the eligibility worker and her supervisor were "let go". It is well known and a publicly established fact that there had been a retirement offer from the State of Michigan dating to [redacted]. The assignment of a new caseworker in [redacted] is likely to coincide with case movement as a result of mass retirement or even the retirements of both the eligibility worker and her supervisor. There is no documentation to establish the worker was "let go", despite the obvious desire of the Appellant's POA to lead this ALJ to somehow conclude the Medicaid denial was dubious. He had opportunity to litigate earlier denials and/or assert he was not provided opportunity to litigate in an Administrative proceeding and/or Circuit Court. Finally, the Appellant states the nursing facility somehow provided him with the incorrect application and/or information pertaining to Medicaid eligibility.

Medicaid eligibility is a responsibility of the Department of Human Services through a contract with the Department of Community Health. The Department of Human Services is also responsible for determining a beneficiary's patient pay amount at the time of long-term care Medicaid eligibility. The Code of Federal Regulations requires a nursing facility to collect the total patient pay amount. [42 CFR 435.725] Accordingly, the Nursing Facility is well motivated to assist in good faith. It does not bear the legal responsibility for ensuring Medicaid eligibility on behalf of its residents, however.

Here, the Department provided evidence that it properly determined the pre-eligibility medical expense benefit for the Appellant. No Department error is established by the evidence of record.

**DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Department properly determined that the Appellant is ineligible for pre-eligibility offset of medical expenses incurred in [redacted]

[redacted]
Docket No. 2012-21558 PEME
Order of Dismissal

**IT IS THEREFORE ORDERED** that:

The Department's determination is AFFIRMED.

Jennifer Isiogu
Administrative Law Judge
for Olga Dazzo, Director
Michigan Department of Community Health

cc: [redacted]

4-20-12

***** NOTICE *****

The Michigan Administrative Hearing System may order a rehearing on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. The Michigan Administrative Hearing System will not order a rehearing on the Department's motion where the final decision or rehearing cannot be implemented within 90 days of the filing of the original request. The Appellant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt of the rehearing decision.