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) 373-4147

IN THE MATTER OF:

[redacted],

Docket No. 2012-71801 PEME
Case No. [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 on [redacted]. [redacted] represented the Appellant. [redacted], Appeals Review Officer, represented the Department. His witness was [redacted], MDCH Medicaid analyst.

ISSUE

Did the Department properly deny Appellant's request for a Pre-Eligibility Medical Expense offset (PEME)?

FINDINGS OF FACT

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

1. The Appellant is an [redacted]-year old Medicaid beneficiary. (Appellant's Exhibit #1)

2. The Appellant was admitted to Medilodge nursing facility on [redacted]. (Department's Exhibit A, page 7)

4. She was Medicaid eligible on [redacted]. (Appellant's Exhibit #1 and *See* Testimony)

5. The Appellant's date of application was [redacted]. (Appellant's Exhibit #1 – throughout)

6. The Appellant incurred residential expense at the nursing facility during the month of [redacted]. (*See* Appellant's Exhibit #1)

5. On [redacted] the request for PEME was sought by the Appellant's representatives. (Department's Exhibit A, pp. 7, 8)

6. The request was denied on [redacted] because it was not "made/reported for debt incurred during the month of application to Medicaid – in this case [redacted]. (Department's Exhibit A, page 2)

7. The Appellant was notified of the negative action on [redacted]. (Department's Exhibit A, page 2)

8. The instant request for hearing was received by the Michigan Administrative Hearing System, for the Department of Community Health on [redacted]. (Appellant's Exhibit #1)

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 Social Welfare Act, the Administrative Code, and the State Plan under Title XIX of the Social Security Act Medical Assistance Program

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 NF is [presumably] well motivated and required under the Medicaid Provider Manual (MPM) to check and verify the Medicaid status of all residents.

It is axiomatic that it is the "[p]roviders responsibility to determine eligibility/enrollment status of patients at the time of treatment… Providers are advised to check the eligibility response for changes of enrollment status prior to billing… It is the provider's responsibility to determine eligibility/enrollment status of beneficiaries at the time services are provided…" *See generally,* MPM §4, Billing and Reimbursement for Institutional Providers, January 1, 2013, page 11.

However, there are reasonable time limits established throughout the Act[1] – and PEME is no exception. *See* BEM 164

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[1] 42 CFR 435.217 and 236; Deficit Reduction Act 2005; the Social Security Act 1903 (x), PL 109-171

PEME is defined as an "unpaid medical expense incurred in the three months prior to application for Medicaid…" in this case [redacted], [redacted] and [redacted] of [redacted]. The Department's witness said that that the month of application is excluded.

The Appellant's testimony that the application was actually made on [redacted] had no support in the record versus the Department's Bridges exemplar as reported in the Exhibit A.

The ALJ's jurisdiction does not extend to the provision of an equitable remedy, among other things, but particularly when a valid cutoff date is imposed by policy and supported by the credible testimony of its witness, [redacted].

DECISION AND ORDER

The Department properly denied the Appellant's request for PEME.

IT IS THEREFORE ORDERED that:

The Department's decision is AFFIRMED.

\s\
Dale Malewska
Administrative Law Judge
for James K. Haveman, Director
Michigan Department of Community Health

[redacted]

cc: [redacted]

Date Mailed: 5/3/2013

***** 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.